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RESPONSE TO COMMENTS
FOR
A HAZARDOUS WASTE PART B FACILITY PERMIT
AND ENVIRONMENTAL IMPACT REPORT
FOR
INDUSTRIAL SERVICE OIL COMPANY, INCORPORATED

EPA ID NO. CAD099452708

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1. INTRODUCTION:

Industrial Services Oil Company, Inc. (ISOCI), located at 1700 South Soto Street, Los Angeles, 90023, in Los Angeles County, submitted a RCRA-equivalent Hazardous Waste Facility Permit Part A application to the Department of Toxic Substances Control (DTSC) on May 23, 1986, with revisions dated March 9, 1989 and October 8, 2004. ISOCI also submitted a RCRA-equivalent Hazardous Waste Facility Permit (Permit) Part B application on September 21, 2000 (with subsequent revisions 1 through 7, dated June 2002, October 2002, November 2003, June 2004, August 2004, October 2004, and August 2005, respectively) for its Hazardous Waste Storage, Treatment and Transfer Facility. On December 15, 2005, DTSC issued a public notice on the proposed Permit and California Environmental Quality Act (CEQA) Environmental Impact Report (EIR). The public comment period ended on April 14, 2006.

During the public comment period, DTSC received a set of 271 comments from 48 members of the public which has been included in its entirety.

DTSC conducted a public hearing on January 21, 2006 in the Ross Snyder Recreational Center 1501 East 41ST Street, Los Angeles, California 90011.

The proposed Permit package, comprised of the Permit application and documentation pertaining to ISOCI's EIR are located at the Robert Louis Stevenson Public Library at 803 Spence Street, Los Angeles, CA 90023 and at DTSC's office located at 1011 N. Grandview Avenue, Glendale, California 91201 (Glendale Office).

Members of the public who are interested in reviewing ISOCI's administrative record, which includes documentation and correspondence associated with its permitting and enforcement history, may contact DTSC's representative, Ms. Jone Barrio at (818)551-2886 at the Glendale Office.

2. PUBLIC COMMENT

Comment No. 1-1

The following is a written comment from Julia Stewart representing CRA/LA:

As per your verbal request today, the Community Redevelopment Agency of the City of Los Angeles (CRA/LA) hereby requests that the Department of Toxic Substances Control (DISC) extend the public comment for the abovementioned Draft Environmental impact Report (DEIR), scheduled to end on February 13, 2006, for at least an additional 60 days. Section 15105 of the California Environmental Quality Act (CEQA) allows for an extension of a public comment period beyond 60 days in the event of unusual circumstances. The CRA/LA asserts that unusual circumstances exist as follow.

Response 1-1

The Department of Toxic Substances Control (DTSC) extended the initial comment period on the draft Environmental Impact Report (dEIR) an additional 15 days beyond the 45-day period afforded by the California Environmental Quality Act (CEQA) implementing Guidelines. This was done in an effort to allow the public and affected agencies more time to provide DTSC with meaningful feedback on the scope and adequacy of the document. Due to subsequent requests from the public, this time period was extended an additional 60 days, resulting in a public comment period for both the draft Permit and dEIR of 120 days. While DTSC took into consideration CRA/LA's request for such an extension, its decision to grant the extension was not based on the comments by CRA/LA that "unusual circumstances" existed justifying such an extension. The following provides responses to CRA/LA's specific comments regarding the issue of "unusual circumstances".

Comment No. 1-2

The following is a written comment from Julia Stewart representing CRA/LA:

No Translation of the Technical Document

The proposed project that is evaluated in the DEIR is located in the Boyle Heights community of eastern Los Angeles, a primarily Spanish-speaking community. While the Public Notice and Fact Sheet were translated into Spanish, the DEIR is available only in English. An extension of the public comment period allows for interested

community members with limited English language skills to have relevant sections or the technical document translated into Spanish. This may increase the level and content of written public comments on the DEIR.

Response 1-2

The commentor correctly points out that both the Public Notice and Fact Sheet were translated into Spanish. Additionally, a Spanish translator was available at the public hearing conducted by DTSC. However, DTSC received no specific requests from members of the community for additional information on the project to be translated into Spanish beyond the Fact Sheet and Public Notice that may otherwise have supported the "unusual circumstances" contention. DTSC agreed that by extending the comment period an additional 60 days, those in the community with limited English language skills may have been afforded additional time for such translation services, if such services were considered necessary.

Comment No. 1-3

The following is a written comment from Julia Stewart representing CRA/LA:

Inadequate Public Outreach

While DTSC's public outreach to date may have satisfied the minimum legal requirements, it has not resulted in informing the affected local residents and other stakeholders about the proposed project. The fact that only one or two persons (in some cases none) have shown up at each public event regarding this project is indicative of a lack of outreach, not community apathy. Boyle Heights is a very active and responsive community. Therefore, it is likely that the community has had little or no participation in this process due to a lack of knowledge and truly adequate outreach. An extension of the comment period, and additional public meetings within Boyle Heights, will enable community members to become informed about and weigh in on the project; the objective of the public outreach and comment period.

Response 1-3

DTSC disagrees with the comment that its public outreach effort did not inform affected local residents and other stakeholders about the proposed project that may otherwise have supported the "unusual circumstances" contention. DTSC agreed that providing additional

time would further add to its already extensive outreach effort to ensure that the affected community and stakeholders were fully and continuously informed of the existence and availability of the dEIR and DTSC's pending permitting determination. The following provides highlights of those efforts:

SUMMARY OF PUBLIC PARTICIPATION ACTIVITIES CONDUCTED FOR THE INDUSTRIAL SERVICES HAZARDOUS WASTE FACILITY "PART B" PERMIT:

1)	Developed mailing list	August 23, 2005
2)	Conducted community assessment 487 Surveys (English & Spanish) mailed	 August 2005
3)	Updated mailing list	September 2005
4)	Developed list of potential candidates for community interview	Aug. – Nov. 2005
5)	Contacted community members for interviews and elected officials for interviews and briefing	Nov. – Dec. 2005
6)	Conduct Community Interviews	Nov. – Dec. 2005
7)	Updating mailing list and interview list based on comments from community members	On-going
8)	Mailed 447 fact sheets (English and Spanish)	December 2005
9)	Published public notice in Eastside Sun (English and Spanish newspaper)	December 12, 2005
10)	Aired radio announcements KFWB (English) Que Buena (Spanish)	 December 14, 2005 December 14, 2005

11) Developed draft community profile	Aug. to Dec., 2005
12) Met with Planning Deputy of Councilmember Jose Huizar's	January 20, 2006
13) Held Public Hearing	January 21, 2006
14) Extended Public Comment Period	February, 2006
15) Met with Planning Deputy of Councilmember Jose Huizar's CRA and Mr. Authuro	March 9, 2006
16) Adelante Eastside PAC meeting	March 28, 2006
17) Boyle Heights Neighborhood Council Meeting	March 29, 2006
18) Boyle Heights Resident Homeowners Association Meeting	April 10, 2006

The public outreach program for this facility began at about the time the Notice of Preparation (NOP) was prepared and released. At that time, several public meetings were conducted with responsible agencies and with the public in general to review the ISOCI project and accept public comments. The availability of the NOP was published in the Los Angeles Times (October 12, 1995) and La Opinion (in Spanish). A public scoping meeting on the ISOCI project was held on November 4, 1995 at the Santa Isabel Church/School, located at 918 South Soto Street, Los Angeles, California. A Spanish translator was available at the public scoping meeting. A Fact Sheet was prepared and circulated to the surrounding community announcing the availability of the NOP and the public scoping meeting. The Fact Sheet and NOP were distributed in both English and Spanish and about 3,100 notices were sent to the surrounding community.

In addition to the public scoping meeting, an agency scoping meeting was held for the NOP for ISOCI on October 31, 1995 and included representatives from the City of Los Angeles Planning Department (Ruby Justice), South Coast Air Quality Management District

(SCAQMD) (Terry McCall), Department of Public Works, Los Angeles County Sanitation District (Ann Heil) and DTSC (Allan Plaza and Guenther Moskat).

More recently, a community assessment was conducted regarding the ISOCI facility. The community assessment was conducted by sending out surveys. The Community Survey (Survey) for ISOCI was sent in August 2005. The questions on the Survey asked if individuals had any concerns about ISOCI, what the language needs were for the community, and how is it best to communicate with members of the community. The Survey asked if community members would be interested in a follow-up interview. For those who indicated interest, DTSC contacted them and conducted interviews.

Additional public outreach was conducted when the draft Permit and dEIR were made available for public review on December 15, 2005. DTSC provided for the maximum public comment period required by the CEQA Guidelines (60 days per CEQA Guidelines §15105(a)). The public comment period allows time for the public to review the documents and submit comments. The public comment period was extended an additional 60 days so the public comment period totaled 120 days.

The availability of the Permit and dEIR were also announced by several methods. First, Fact Sheets in both English and in Spanish were mailed out on December 12, 2005 to the community with a comment form and a return envelope. Second, public notices were provided on December 15, 2005 in both English and Spanish in local newspapers (Eastside Sun). Third, radio announcements were made in both English and Spanish on KFWB 1070 AM and Que Buena Que Buena 105.5 FM on December 14, 2005. Fourth, the availability of the documents was announced on the DTSC web page in both English and Spanish (http://www.dtsc.ca.gov/HazardousWaste/Projects/ISOCI.cfm). Fifth, a public hearing to discuss the project and accept public comments was held on January 22, 2006. A Spanish translator was available at the public hearing. In addition, the public was notified via mail that the public comment period was extended an additional 60 days and told how to review the documents. Finally, DTSC was invited to, and participated in, three additional community-held meetings in the Boyle Heights area on March 28, 2006, March 29, 2006 and April 10, 2006.

DTSC believes that its expanded public outreach program for this project accurately informed the community of the project so that meaningful feedback was able to be secured consistent with the requirements of CEQA and the implementing Guidelines.

Comment No. 1-4

The following is a written comment from Julia Stewart representing CRA/LA:

Multiple Legal holidays During the Comment Period

The public comment period began shortly before the Christmas holiday and has had at least 4 legal holidays during the 60 days allotted for public comment. During the year-end holidays, it is often difficult, if not truly impractical, for the public to respond to a detailed document. It is not uncommon for schedules to be altered, children to be off school and at home and general distractions of family gatherings and special events to occur. On the whole, the community is usually focused on the celebration of the season, not attending public hearings or reading through technical documents (that are not written in their primary language).

Response 1-4

DTSC took into the consideration the concerns of those who celebrate the holiday season when initially extending the comment period from the 45 days required under CEQA to 60 days. The decision to grant an additional 60-day extension beyond the original 60 days was done in an effort to further encourage those who may not have had the opportunity to review and comment on the documents within the original time period. Also, please note that the public hearing was held on January 22, 2006, about three weeks after the holiday season ended.

Comment No. 1-5

The following is a written comment from Julia Stewart representing CRA/LA:

Substantial Time Lapse Between Issuance of NOP and DEIR.

The Notice of Preparation (NOP) was issued in 1995. After eleven years, it is unfair to expect that any community member could reasonably follow the permitting process with such a lengthy period of time between the issuance of the NOP and the DER. The permit applicant has had approximately 15 years to prepare for the DEIR. Shouldn't the public be allotted an extended comment period, at the very least, in order to grapple with the technical issues articulated out of years of research?

Response 1-5

While the dEIR and draft Permit were only recently made available to the public and affected agencies, the overall project description and scope of analysis of potential impacts did not vary to a great degree from that originally proposed in the NOP. This determination, as well as DTSC's extensive outreach efforts to inform the public and affected agencies of the status and availability of the documents for reviews and comment, does not support the "unusual circumstances" assertion by the commentor. The public comment period was extended primarily for the reasons stated in Responses 1-1 through 1-4.

Comment No. 2-1

The following is a written comment from Julia Stewart representing CRA/LA:

The following preliminary comments are submitted in connection with the aforementioned Draft Environmental Impact Report (DEIR). The Community Redevelopment Agency of the City of Los Angeles (Agency) is submitting these written comments as a responsible agency, given its planning and discretionary approval authority over the proposed Project.

The Agency understands that the California Department of Toxic Substances Control (DTSC), as the lead CEQA agency, is considering extending the public comment period beyond the current February 13, 2006 deadline. By written correspondence dated January 30, 2006 (attached), the Agency has expressed its strong desire that DTSC extend the public comment period by at least 60 days. Given this understanding, the Agency is submitting these preliminary comments. The Agency reserves all rights to expand on the comments contained herein and/or submit additional written comments.

Response 2-1

See Response 1-1.

Comment No. 2-2

The following is a written comment from Julia Stewart representing CRA/LA:

Executive Summary

The Industrial Service Oil Company, Inc. (Applicant) has been operating as an oil and antifreeze recycling and storage facility (existing operation) at its 1700 S. Soto Street, located within the Boyle Heights community of Los Angeles, since May 23,1986 and March 9, 1989 under a Part A Permit issued by DTSC. The Applicant filed a Part B Application with the DTSC on November 7, 1988, seeking a permit to process and/or house a significantly wider range of hazardous and toxic materials (expansion of operations) at its Boyle Heights location. An EIR was required for approval of both the existing operation and the expansion of operations (Project). DTSC, determining itself as the lead agency, initiated the CEQA clearance process by publishing a Notice of Preparation in 1995. The Community Redevelopment Agency of the City of Los Angeles, a state agency, adopted the Adelante Eastside Redevelopment Plan (Redevelopment Plan), which includes the site on which the Applicant is currently conducting business, The Los Angeles City Council, by Ordinance No. 172514 adopted on March 30, 1999, approved the Redevelopment Plan. Pursuant to the Redevelopment Plan, and California Community Redevelopment Law (Health & Safety Codes Section 33000, et seq.), the Agency is responsible for the prevention or elimination of blight and the creation of places that are safe to live and work in the community of Boyle Heights and beyond.

Sometime during 2005, DTSC directed its outside environmental consultant, Environmental Audit, Inc., to prepare a Draft Environmental Impact Report on the aforementioned Project. At no time did the agency receive a notice of such preparation, nor did it receive an Administrative Draft or Screencheck Draft of the document, as is a courtesy customarily extended to a responsible agency under CEQA guidelines.

Response 2-2

The summary comments regarding the ISOCI facility draft Permit and the Adelante Eastside Redevelopment Plan (Redevelopment Plan) are noted.

The statement that DTSC directed Environmental Audit, Inc. (EAI) to prepare the ISOCI dEIR in the year 2005 is incorrect. DTSC directed EAI to begin work on the dEIR in 1995, the year the Notice of Preparation (NOP) was released for review and comment by the public and affected governmental entities, including departments within the City of Los Angeles (LA).

DTSC worked closely with the City of LA on all issues related to the dEIR at that time. The statement that "DTSC, determining itself as the lead agency, initiated the CEQA clearance process by publishing a Notice of Preparation in 1995." is misleading. To determine lead agency status, in a letter, dated August 15, 1994, DTSC requested that the City of LA inform DTSC if it considered itself to be the lead agency on the ISOCI project. DTSC did not receive a response and sent a second request, dated September 22, 1994, in which it stated, part, "…[S]ince you have not responded to this inquiry, the Department will assume the responsibility of being the lead agency in the preparation of EIR in compliance with the California Environmental Quality Act and as mandated by section 21151.1 of the Public Resources Code. The other issue remains unanswered as to whether the facility will be required to obtain a land use permit which may trigger the "Tanner" process pursuant to Article 8.7, Chapter 6.5 of the Health and Safety Code. Please advise as soon as possible if a land use permit is necessary for the Industrial Service Oil facility and whether the City would assume the preparation of an EIR. The Department will be initiating the preparation of an EIR within 30 days unless the City advises the Department it will assume the lead agency role." DTSC is not aware of any responses to this letter from the City. As a result, DTSC assumed the role of lead agency for the project.

With respect to reviewing Administrative Draft or "Screencheck" Draft EIRs, DTSC is not aware of any requirement under CEQA or its implementing Guidelines for such reviews prior to the final draft EIR going out for public and agency review.

Comment No. 2-3

The following is a written comment from Julia Stewart representing CRA/LA:

Agency staff have reviewed the DEIR and found it deficient in its identification, treatment and analysis of a wide range of topics affecting the health and safety of the neighboring Boyle Heights communities. Further, the Agency staff review finds the proposed Project itself to be in conflict with a number of Redevelopment Plan objectives. The Agency believes therefore that continued operation without expansion, the environmentally superior alternative identified in the DEIR, represents the most prudent course of action by DTSC.

Response 2-3

DTSC disagrees with the statement that the dEIR is deficient. Responses to specific issues raised are provided in the following Responses 2-4 through 2-19.

Comment No. 2-4

The following is a written comment from Julia Stewart representing CRA/LA:

Notice of Preparation (NOP)

The Notice of Preparation (NOP) for this proposed Project was issued by DTSC in 1995, prior to the adoption of the Adelante Eastside Redevelopment Project. However, the Agency is unaware of any substantive preparation of the environmental impact report for as many as 11 years since the issuance of the NOP in 1995. Our review of the public record indicates that in 1995 no initial study was prepared or environmental checklist completed. CEQA requires the preparation of an EIR for hazardous and toxic waste projects but there is no indication of how DTSC determined what were the potentially significant impacts created by the proposed Project that should be evaluated in an EIR. It is only recently that preparation of the DEIR has moved forward. In responsible environmental review, most environmental documents are considered out of date after 11 years. Section 15108 of the CEQA guidelines reads:

"With private projects, the lead agency shall complete and certify the final EIR as provided in Section 15090 within one year after the date when the lead agency accepted the application as *complete."*

Given the significant lapse of time, eleven years between the issuance of the NOP and the preparation of the DEIR, DTSC should have prepared and circulated a new NOP once substantive work on the DEIR began in earnest.

Further, a new NOP is required to be issued should the Project Description for the proposed Project change. The proposed project identified in the 1995 NOP is not the same as the Project being proposed and evaluated in the DEIR. The Project Description attached to the NOP is not the same as the Project Description in the DEIR. CEQA requires that whenever there are changes in a Project Description, a new NOP should be issued. Issuing a new NOP essentially restarts the clock on the preparation of environmental documents.

Response 2-4

The October 12, 1995 Notice of Preparation explained that an Initial Study was not required since preparation of an EIR for the project was mandatory under California Public Resources Code section 21151.1(a)(3).

Public Resources Code section 21151.1(a) states, in part: "…a lead agency shall prepare or cause to be prepared by contract, and certify the completion of, an environmental impact report…for any project involving any of the following… (3) The initial issuance of a hazardous waste facilities permit pursuant to Section 25200 of the Health and Safety Code to an offsite large treatment facility, as defined pursuant to subdivision (d) of Section 25205.1 of the Health and Safety Code." The ISOCI facility meets the definition of an "offsite large treatment facility" as defined in Health and Safety Code section 25205.1. Because the ISOCI facility is required to draft an EIR, an Initial Study to determine if an EIR is necessary is not required.

The NOP nonetheless provided the reader with an explanation of those resources areas found in an Initial Study Checklist that would be examined in detail, as well as an explanation as to why certain resource areas would not be impacted and thus would not be further analyzed in the draft EIR (see Appendix A of the ISOCI Draft EIR). This approach is consistent with CEQA and the implementing Guidelines.

DTSC disagrees with the statement that that Project Description contained in the NOP is not the same as that provided and evaluated in the draft EIR. Consistent with section 15082 of the State CEQA Guidelines, immediately after deciding that an Environmental Impact Report (EIR) was required for this project, DTSC filed a Notice of Preparation (NOP) with the Governor's Office of Planning & Research (OPR) stating that an EIR would be prepared. This notice provided responsible and trustee agencies and OPR with sufficient information describing the project and the potential environmental effects to enable the responsible agencies to make a meaningful response. The information in the NOP included a description of the project, as well as location, and probable environmental effects.

After filing of the NOP, DTSC directed ISOCI to submit accurate and detailed information about proposed facility operations and expansions necessary for the permit application submitted pursuant to Chapter 6.5 of the Health & safety Code to be considered complete. In addition, DTSC worked with the EIR consultant to ensure that this information was accurately reflected in the draft EIR, along with information concerning any changes to the environmental conditions affected by the project. While a decision has only recently been made with respect to a completeness determination on ISOCI's permit application, the basic description of the proposed project and surrounding environmental conditions have not changed appreciably to the degree that re-circulation of the draft EIR is required.

The commentor refers to CEQA Guidelines section 15108 (Section 15108) that requires the lead agency to complete and certify the final EIR within one year after receiving a complete application. However, Section 15108 also provides for a one-time extension of not more than 90 days if the lead agency and applicant agree. In this instance, the timeframe for

preparation and completion of the draft EIR was extended to allow the applicant additional time to submit clarifying information about the project in order for DTSC to deem the application complete, and to allow for a full understanding of all aspects of the project so that a thorough analysis of potential impacts could be undertaken. The preparation of the dEIR began in 1995 and was periodically revised and updated to reflect changes required by DTSC to ensure that the final document accurately reflects all project activities and potential impacts. Because DTSC determined that the application was complete as of December 14, 2005, it must complete and certify the final EIR on December 14, 2006 and is therefore consistent with CEQA timeline requirements.

It is for the above reasons that DTSC determined that it was not necessary to issue a new NOP as suggested by the commentor.

Comment No. 2-5

The following is a written comment from Julia Stewart representing CRA/LA:

Public Outreach

The public outreach initiated by DTSC for the proposed Project has been and remains inadequate. According to DTSC, few if any community residents showed up at the public scoping meeting held in 1995. This was also true for the public hearing held January 21, 2006 at a community facility, located at a facility over 5 miles and outside of the region affected by the proposed Project. The NOP was issued in 1995, eleven years prior to the preparation of the DEIR. As stated in the attached letter from the Agency to the DTSC, it is unreasonable to expect any community member to follow the permitting process with such a lengthy period of time between the issuance of the NOP and the DEIR.

Response 2-5

DTSC disagrees that its public outreach program has been and remains inadequate. See Response 1-3 regarding DTSC's expanded public outreach program for the proposed project.

Comment No. 2-6

The following is a written comment from Julia Stewart representing CRA/LA:

Inadequate Noticing

The DTSC has performed inadequate noticing for the DEIR. As referenced previously, the last comment period regarding the proposed Project ended November 15, 1*995.* Several major stakeholders were never issued the NOP, including major property owners in the surrounding area. The Agency never received a NOP for the Project once the Adelante Eastside was adopted in 1999. The property owner and developer for the development proposed at the Olympic/Soto site, MJW investments, Inc., which could affect many potentially significant impacts, including cumulative impacts, for the proposed Project was never noticed or even contacted during the DEIR preparation.

Additionally, the notice that was sent out as required by law, was insufficient in conveying the true nature of the proposed Project. (See attached DTSC cover letter dated August 19, 2005 and community survey form). The letter from the DTSC does not indicate that the permit the Applicant is seeking includes an expansion beyond the used oil and spent antifreeze treatment and storage under current operations on the Site. The Community Survey form does not indicate anywhere that the substances handled by the Applicant are toxic and potentially dangerous to the surrounding community. The benign nature of the survey form and letter give no accurate indication of the harmful potential that the Part B Permit presents. The intention of CEQA is to accurately inform the community of a project so that meaningful feedback may be secured. In this instance, the process utilized by DTSC has failed to satisfy this state law intention.

Response 2-6

DTSC disagrees that it performed inadequate noticing for the dEIR. Please refer to Response to Comments 1-1, 1-2, 1-3, 1-4, 1-5, and 2-2.

With respect to notification being provided to MJW Investments (MJW), Environmental Audits, Inc., DTSC's contractor, contacted MJW to obtain the information relative to the Sears Tower project that is contained in the dEIR. DTSC is not aware of any applications submitted by MJW Investments or any other applicant for any specific project at the Sears Tower, thus precluding further scrutiny of the analysis in the dEIR.

The notice that was provided on August 19, 2005 and referenced in this comment was the Community Survey. The DTSC cover letter to the Community Survey is part of the DTSC public outreach program and is not part of the legal notices or public comment period required under CEQA. The Community Survey is part of the general public outreach

program conducted by DTSC to identify interested community members. The letter was intended to identify individuals in the community interested in learning more about the project prior to the release of the Draft permit and dEIR, and clearly states that the facility is a hazardous waste treatment facility. DTSC contacted several individuals, including City of LA representatives, in an effort to provide them with the opportunity to participate in the Community Survey. DTSC also contacted any individual that returned the Survey and expressed interest in the proposed project.

It is DTSC's understanding that the California Redevelopment Agency of the City of Los Angeles (CRA/LA) was created in 1999, four years after the NOP was released for review and comment. DTSC worked closely with the City of LA beginning in 1995. However, the City of LA did not inform DTSC of the creation of the CRA/LA nor of the Adelante Eastside Redevelopment Project (AERP). Further, DTSC, as a potential Responsible Agency, should have received an NOP and draft EIR (SCH No. 1997061065) for review and comment from CRA/LA regarding the AERP. DTSC should have been considered a potential Responsible Agency under CEQA because of its regulatory authority over the ISOCI facility and the facility's proximity within the proposed redevelopment project. Unfortunately, DTSC never received either the NOP or draft EIR from CRA/LA for the AERP. The opportunity to review both documents would have afforded DTSC the ability to provide CRA/LA with useful information, including the Health Risk Assessment, that would have assisted CRA/LA in evaluating the effects of allowing certain land use activities in close proximity to existing industrial facilities such as the ISOCI facility.

While not previously afforded the opportunity to review the AERP and its EIR, DTSC has recently obtained these documents in an effort to provide meaningful responses to the comments by CRA/LA that ISOCI's proposed expansion plans would be inconsistent with the goals and objectives of the AERP. Specific responses addressing CRA/LA comments are provided in Responses 2-7 through 2-11.

Comment No. 2-7

The following is a written comment from Julia Stewart representing CRA/LA:

Adverse Land Use and Planning Impacts Related to Agency Plan

The Agency is responsible for the prevention or elimination of blight and the creation of places that are safe to live and work in the community of Boyle Heights and beyond. Several sections of the Redevelopment Plan address various factors contributing to blighting conditions in the Eastside. The proposed Project appears to violate a number of these provisions, including the goals and objectives of the

redevelopment plan. This creates a significant impact in the Land Use and Planning category because the Project conflicts with applicable land use plans, policy and regulations of the Agency, which has jurisdiction over the proposed Project.

Response 2-7

Based on its review of the AERP and its EIR, DTSC does not agree with CRA/LA's comments that the proposed project conflicts with the goals and objectives of the Adelante Eastside Redevelopment Project (AERP). To the contrary, DTSC found these documents to support existing and proposed industrial redevelopment as long as such facilities and expansions are consistent with prescribed zoning and land uses, and found no evidence of restrictions upon existing industrial facilities such as ISOCI. Responses 2-8 through 2-11 provide examples in the AERP and EIR where DTSC found CRA/LA conclusions of conflict with the redevelopment plan to be unsupportable.

Comment No. 2-8

The following is a written comment from Julia Stewart representing CRA/LA:

Conflicts with the Adelante Eastside Redevelopment Plan

The proposed Project does not conform with Section 106 of the Plan, as follows:

Environment - An expressed general objective of the Plan is to improve the quality of the environment, promote a positive image for the area and provide a safe and secure environment by developing safeguards against items such as noise, air pollution and other environmental hazards. Projects such as the Applicant's proposed expansion of operations clearly fall under the category of the type of development that presents an environmental hazard to the community. Even with complete lawful mitigation, the proposed Project will still produce harmful emissions that cannot be filtered to 0%. The proposed Project violates this redevelopment objective of the Plan and thus is a violation to the Plan itself.
Response 2-8

DTSC disagrees that the proposed project, which includes the current operations and the proposed expanded operations at ISOCI, presents an environmental hazard to the community. DTSC also disagrees that the proposed project does not conform to Section 106 of the AERP Plan and is a violation of the Plan. Section 106 outlines the AERP Plan objectives. For industrial areas, such as ISOCI, the objectives of the AERP Plan are as follows (see page 4 of the AERP Plan):

- Provide for the conservation of existing industrial uses through rehabilitation, revitalization and expansion.

- Encourage the development of an industrial environment that positively relates to adjacent land uses, including an emphasis on the development of industrial parks and industrial operations that are environmentally safe and that expand employment opportunities for residents of the Project Area and adjacent neighborhoods.

- Promote the availability of publicly and privately funded financial and technical assistance programs to enable existing and new industrial operations to meet community needs and be economically viable.

Based on the above objectives, it is clear that AERP encourages additional industrial development. Additionally, the AERP Plan's Introduction states, in part: "…[T]he Redevelopment Plan was adopted by the Los Angeles City Council on March 28, 1999, in part to preserve the industrial and commercial uses within the community through rehabilitation efforts and new construction of buildings…" As an industrial facility, ISOCI would be included in the preservation plans of the AERP Plan. Also, the AERP Plan suggests that it considers only old, deteriorated structures as blight that should be eliminated. As the ISOCI facility is maintained and not deteriorated, it would not be considered blight and does not conflict with the AERP Plan's objectives.

The Adelante Eastside Redevelopment Project Final EIR (AERP EIR) analyzed the following three alternatives:

- The Minimum Infill Alternative - no residential development in Subarea 3, an additional 751,200 sq. ft of industrial development in Subareas 1,2, and 3, and 30 new multi-family units within Subarea 4 (only).

- Moderate Development Alternative – 120 residents in Subarea 4, no residential units in Subareas 1, 2, or 3, and 1,541,900 square feet of additional industrial uses in Subareas 1, 2, and 3.

- Maximum Probable Development – 195 new residential units in Subarea 4, no residents in Subarea 1, 2, or 3, 2,577,400 square feet of new industrial development in Subareas 1 2, and 3.

Please note that in each alternative listed above, Subarea 3 has no residential development included. The ISOCI facility is located in Subarea 3, (please see pages 2-7 through 2-13 of

the AERP EIR). The AERP EIR does not appear to have analyzed 750 new residential units at the corner of Olympic/Soto which is in Subarea 3.

Health and Safety Code, Division 20, Chapter 6.5, Article 3.5 (Article 3.5) requires each county in California to prepare a hazardous waste management plan to safely and responsibly manage hazardous wastes generated and disposed of within the county.

In response to Article 3.5, the Los Angeles County Department of Public Works (LACDPW) prepared a Los Angeles County Hazardous Waste Management Plan (LACHWMP) that was subsequently approved by DTSC on November 30, 1989. The Hazardous Waste Management Plan analyzed the projected needs, shortfalls and excesses for hazardous waste treatment facilities in Los Angeles County. Portions of this Plan were updated in September 1994 by the Southern California Hazardous Waste Management Authority.

The Regional Hazardous Waste Management Plan promotes the concept that every city and county in the region will accept responsibility for the management of hazardous wastes in an amount proportional to the hazardous wastes generated within the city and county.

The LACHWMP also defines in detail the criteria that must be met for siting hazardous waste management facilities or for major modifications to an existing facility and to identify areas suitable for siting off-site hazardous waste management facilities. The portion of Los Angeles in which ISOCI is located is identified as generally suitable for off-site hazardous waste management facilities in the LACHWMP. The LACHWMP identifies suitable areas not only because they meet the siting criteria, but also because most hazardous waste generators are located in these areas and the generator operations are very similar environmentally to the hazardous waste management facilities. The areas considered to be "suitable" for hazardous waste management facilities are based on various criteria including: (1) distance from residences; (2) lack of flood hazards; (3) lack of geological hazards including subsidence, liquefaction, and active faults; (4) lack of aqueducts and reservoirs in the area; (5) lack of environmentally sensitive areas; (6) proximity to major transportation routes; and (7) industrial zoned property, among others.

The area surrounding the ISOCI facility consists of heavy industrial land uses (see page 3-90 of the dEIR) and because ISOCI is designated as industrial, it is compatible with this land use. The Sears Tower property is surrounded by heavy industrial land uses on the north, west and south side. In fact, industrial facilities are located adjacent to the Sears property on the south side. Therefore, there are a number of other industrial uses in the area, and a number of those are located much closer to the Sears property than ISOCI.

The ISOCI facility proposed project is not expected to conflict with the Adelante Eastside Redevelopment Project (AERP). The proposed project is not expected to conflict with Section 106 of the AERP with regard to "environment" for the following reasons:

Noise: The Draft EIR evaluated project impacts on noise and concluded that the noise increases in the area are not expected to be noticeable to the adjacent industrial areas and the noise increases will be located a substantial distance from residents or other sensitive receptors. Therefore, noise impacts associated with the proposed project are expected to be to less than significant, based on the City of Los Angeles' significance criteria.

Air Quality: Air Quality Impacts were determined to be significant for nitrogen oxides (NOx) and volatile organic compounds (VOC). The potentially significant VOC emissions are expected to be mitigated to less than significant using air pollution control equipment on certain storage tanks and the oil/water separator. The emissions of NOx are significant primarily due to emissions from trucks and railcars (locomotive engines). Feasible mitigation measures for trucks were not available because (1) ISOCI does not have control (own) over the trucks that visit the facility; and (2) requiring these mitigation measures on trucks would be expected to result in the trucks traveling to other oil recycling facilities, rather than installing additional control equipment. As shown in the No Project Alternative (see Table 4-2), NOx emissions are expected to be higher without the ISOCI facility because trucks may have to travel a greater distance for oil recycling. Traffic and the related emissions in the area of the project are largely unrelated to ISOCI. Soto Street is used by over 40,000 vehicles a day and ISOCI would generate traffic from 100 trucks plus about 30 employee vehicles for a total of 130 vehicles. Therefore, ISOCI is responsible for less than one percent of the traffic and the related emissions along Soto Street.

No other feasible mitigation measures have been identified for railcar emissions because the emissions would continue to be generated in the area with or without the project, due to the close proximity of local rail yards to the ISOCI facility.

Hazards: The dEIR evaluated project impacts on hazards and concluded that the hazards associated with handling most of the wastes currently handled and proposed to be handled by ISOCI were less than significant. However, a potential release (e.g., spill) of certain chemicals could generate significant impacts, specifically chemicals that are volatile (evaporate easily) and have low exposure thresholds. For those chemicals, a mitigation measure was imposed that limited the concentration of chemicals (see Draft EIR Table 3.5-6), such that a release would result in concentrations below the Emergency Response Planning Guideline (ERPG-2) threshold levels. Chemicals in this category include phosgene, phosphine, chlorine, acrolein, cyanide, formaldehyde, and hydrofluoric acid,

among others. This will reduce the potential significant hazard impacts to less than significant.

Based on the above, it is DTSC's conclusion that the project is not in conflict with the objectives of the AERP.

Comment No. 2-9

The following is a written comment from Julia Stewart representing CRA/LA:

Housing – An expressed housing objective of the Plan is to promote the development of sound residential neighborhoods with sensitive mixed-use and in-fill housing development. The Olympic/Soto Mixed-Use development proposed less than 850 feet from the proposed Project Site will bring 750 new residential units to the Adelante Eastside Project Area. Exposing 750 households and housing sensitive receptors does not satisfy the sensitive mixed-use and in-fill housing objective in the Plan. The Olympic/Soto Mixed-Use development has been well-known to the Boyle Heights community for at least two years. The Applicant is aware of the project, acknowledges it in the DEIR, and yet does not analyze exposure of the proposed sensitive receptors that will be located less than one full block away from the proposed Project Site. This is a potential violation to the Adelante Eastside Plan and, thus, a potential significant impact in Land Use and Planning which is not analyzed in the DEIR. Thus, the DEIR is inadequate in its analysis.

Response 2-9

As discussed in the dEIR (page 3-45), the maximum incremental increase in cancer risk to a sensitive population was estimated to be 1.04 x 10-6 (1.0 per million) for adults and 0.47 x 10-6 (0.5 per million) for children at the Lou Costello Recreation Center. All of the cancer risk is attributed to exposure through the inhalation pathway. The cancer risk at all other sensitive populations is estimated to be less than 1.04 per million. The cancer risk to the sensitive populations (highest impact of 1.04 per million) is less than the significance threshold of 10 per million. Therefore, no significant impacts to sensitive populations are expected.

The estimated cancer risk assuming a residential exposure at the Sears Tower is 0.395 x 10-6, which is less than the maximum exposed sensitive receptor and also less than significant.

Also, note that the distance from the ISOCI facility to the closest point of the Sears Tower property is about 1,500 feet.

Comment No. 2-10

The following is a written comment from Julia Stewart representing CRA/LA:

Commercial Retail Shopping Opportunities - An explicit commercial objective of the Plan is to increase the supply and improve the quality of commercial retail shopping opportunities and promote the retention and development of a variety of commercial retail. The Olympic/Soto Mixed-Use development proposes approximately 575,000 square feet of new commercial space and 3,300 new parking spaces to support the commercial and housing elements of the development. Increased truck and rail traffic around the Olympic/Soto development, along with potential exposure to hazardous materials both stationary on the Site as well as through transport of trucks and railcars on the way to the Site, is not conducive to furthering this project objective. The proposed Project is a potential violation to the Plan in this instance and, thus, a potentially significant impact to Land Use and Planning. There is no discussion of this violation to the Plan. Therefore, the DEIR is inadequate in its analysis.

Response to Comment 2-10

DTSC disagrees that the dEIR is inadequate because it did not analyze the commercial retail shopping opportunities. Section 3.7.1.1 of the dEIR specifically discusses the Land Use options for the property located at Olympic/Soto Street. The dEIR states: "MJW Investments, Inc. is finalizing plans for a mixed-use project on the 23.5-acre Sears site at Olympic Boulevard and Soto Street. Property adjacent to the Sears site is also included in the plan. Original plans include 440 townhomes and condominiums, 180 rental apartments, with 20 percent of the units reserved for low-income families. Additionally, 750,000 square feet of retail space, an office component, and parking lot for at least 3,000 are on the plans. Also included in the plans are cobble-stone streets winding through the project to connect homes with commercial structures, as well as the proposed community center and several acres of athletic fields and parks (Fixmer 2004).

Based on its review of the AERP and its EIR, DTSC does not agree with CRA/LA's comments that the proposed project is in violation of the objective of the AERP to increase the supply and improve the quality of commercial retail shopping opportunities and promote the retention and development of a variety of commercial retail. To the contrary, DTSC found no evidence in these documents to suggest that existing industrial facilities such as ISOCI would negatively impact existing and proposed commercial

redevelopment that may otherwise require restrictions on their operations or expansions. It is also apparent that the City of Los Angeles' determination that the ISOCI facility is "deemed to be approved" of its conditional use permit supports the conclusion that the proposed project would be in conformance with the goals and objectives of the AERP since any inconsistencies would have been discussed and analyzed in the adopted AERP and accompanying EIR. DTSC feels these findings support the conclusions in the ISOCI dEIR that the impacts from the proposed project on land use are expected to be less than significant.

See Response 2-8 with respect to truck and rail traffic and hazards. In addition, rail traffic near Soto Street accesses the local rail yards via railroad tracks that are grade separated from the local streets so that rail traffic and vehicle traffic do not conflict. Rail traffic at the ISOCI facility access the facility via the rail yard and the adjacent track is grade separated from Soto Street; therefore, the rail traffic associated with the ISOCI facility does not impact local traffic or cause traffic to back up on local streets at railroad crossings.

It should be noted that the traffic generated by the Olympic/Soto Mixed-Use development that includes 575,000 square feet of commercial use and 750 residential units (as reported in Comments 2-8 and 2-10), would generate an estimated 10,216 trips per day (assuming 10.97 trips per 1,000 square feet of commercial use and 5.21 trips per residential unit based on the URBEMIS2002 model). The 10,216 trips per day represent about 25 percent of the total capacity of Soto Street (40,000 vehicles per day). This figure can be compared to the 260 trips per day of truck and employee vehicle trips per day associated with the ISOCI facility (100 trucks, 30 employee vehicles trips, respectively). The ISOCI facility trips per day represent a small fraction of the traffic that would be generated by the developed at the Sears Tower, as well as the overall traffic in the area.

Expansion associated with the ISOCI facility is proposed within the confines of the existing facility boundaries and there will be no physical expansion of the facility. Commercial retail shopping should not be impacted by the expansion.

Comment No. 2-11

The following is a written comment from Julia Stewart representing CRA/LA:

Industrial Development - An explicit industrial objective of the Plan is to encourage the development of an industrial environment that positively relates to adjacent land uses. Clearly a hazardous waste and storage facility does not positively relate to nearby residential and commercial uses. The proposed Project is a potential violation to the Plan

and thereby a potentially significant impact to Land Use and Planning. The DEIR dismisses any land uses that are not heavy industrial as not being "primary" and therefore not worthy of discussion. No genuine discussion of how the existing operation and proposed expansion of operations relates to land uses located less than a block away is an inadequate analysis in the DEIR.

Response 2-11

DTSC understands the concerns raised regarding the interplay of different designated land uses. However, DTSC disagrees with the comment that this facility does not positively relate to adjacent land uses. See Response to Comments 2-8, 2-9, and 2-10. As discussed in those responses, the AERP encourages additional industrial development specifically within Subarea 3, the area that includes the ISOCI facility.

The dEIR focused on the heavy industrial land uses because they are the predominant land uses in the area and all land uses within one block of the ISOCI facility are zoned heavy industrial. The dEIR concludes that the site is compatible with the heavy industrial land uses that surround the ISOCI facility (see EIR, Figure 3.7-1). As shown in Figure 3.7-1 all land surrounding the ISOCI facility is zoned for heavy industrial land use, with the closest commercial use being the Sears Tower building (over 1,500 feet away). The closest residential area to the ISOCI facility is about one-quarter mile north of the facility. The air toxic and hazard impacts were determined to be less than significant; therefore, the continued operation of the ISOCI facility is not expected to conflict with the residential land uses. The ISOCI facility is compatible with the Adelante Eastside Redevelopment Plan which recognizes that the ISOCI site is zoned for heavy industrial use and the facility is compatible with that use and is surrounded by other heavy industrial facilities (not commercial or residential facilities). Expansion associated with the ISOCI facility is proposed within the confines of the existing facility boundaries.

As a recycling facility, ISOCI provides a useful service to the community that is protective of the environment.

Comment No. 2-12

The following is a written comment from Julia Stewart representing CRA/LA:

Land Use Permitting History

Section 2.3 of the DEIR is inadequate as it does not address Section 408.4 of the Adelante Eastside Plan. It discusses permits issued through the DTSC and only reviews the permit history for the City of Los Angeles based on a general ordinance that deemed all existing facilities to be permitted.

Section 521 Variances, Conditional Use Permits, Building Permits and Other Land Development Entitlements, a related Plan section, states:

"No zoning variance, conditional use permit, building permit, demolition permit or other land development entitlement shall be issued in the Project Area from the date of adoption of this Plan unless and until the application therefore has been reviewed by the Agency and determined to be in conformance with this Plan."

There is no permit history specifically for the hazardous waste facility with the City of Los Angeles for the Site. At no time was a Use permit for a hazardous waste facility issued by the Department of Building and Safety for the City of Los Angeles, according to city records. The DEIR acknowledges this fact. While the City passed Ordinance Number 163,620, the existing facility itself has never been evaluated through the city permitting process. And a permit for the facility has yet to come to the Agency. Additionally, the expansion of operations proposal for the Project is not "deemed-to-be-approved" and must be evaluated separately from Ordinance 163,620.

Response 2-12

Section 2.3 of the dEIR discusses the Part B permit process with DTSC. The dEIR discusses the City of LA's land use approvals in Section 2.10-Environmental Permits and 3.7.1.1 – Land Use and Zoning. A discussion of the AERP has been added to Chapter 3.7 – Land Use of the Final EIR to indicate that the ISOCI facility is within the AERP.

The City of LA enacted Ordinance Number 163,620 (Ordinance) on May 11, 1988, which granted "deemed-to-be-approved" conditional use authority to existing hazardous waste facilities, including ISOCI, so that these existing facilities were not required to submit a permit application to the City of LA. The Ordinance also required all new and modified hazardous waste facilities to obtain a conditional use permit. The City of LA approval is required for new and modified hazardous waste facilities. To date, ISOCI has not triggered the requirement for any type of use permit. However, as discussed in the dEIR, an expansion of the facility may trigger the need for a Conditional Use Permit (CUP).

Comment No. 2-13

The following is a written comment from Julia Stewart representing CRA/LA:

Section 408.4 Development Plans of the Adelante Eastside Redevelopment Plan asserts that any development plan must be reviewed by the Agency. It reads as follows:

"All development plans (whether public or private) shall be submitted to the Agency for approval and architectural review. All development in the Project Area most conform to this Plan, applicable design guidelines, and all applicable federal. State and local laws, and most receive the approval of the appropriate public agencies."

The Applicant never submitted the development plan for approval of the Project to the Agency or the City of Los Angeles. It is therefore operating without a Use permit. This violation is not discussed in the application history section of the DEIR. The analysis does not address the unlawful operation of the facility from 1974 to 1988 and the development itself appears to violate the Adelante Eastside Redevelopment Plan.

Response 2-13

See Response 2-12 regarding the City of LA permit status. To date, ISOCI has not triggered the requirement for a Development Plan or Conditional Use Permit (CUP). However, as discussed in the Draft EIR, an expansion of the facility may trigger the need for a CUP, and the related Development Plan.

Comment No. 2-14

The following is a written comment from Julia Stewart representing CRA/LA:

Section 516 Incompatible Uses of the Plan reads:

"No use or structure, which by reason of appearance, traffic, smoke, glare, noise, odor or similar factors that would be incompatible with the surrounding areas or structures, shall be permitted in any part of the Project Area."

There are several potential conflicts with the proposed Project and the Agency Plan that fall under Section 516. These conflicts are not analyzed in the DEIR

Response 2-14

The potential conflicts of the proposed project related to traffic, noise and air quality are addressed in Response 2-8. The potential impacts of the proposed project on aesthetics and noise were evaluated in the Draft EIR (see Chapters 3.2 and 3.8, respectively). No significant aesthetic or noise impacts are expected from the ISOCI proposed project; therefore, the proposed project is not expected to conflict with the AERP.

Comment No. 2-15

The following is a written comment from Julia Stewart representing CRA/LA:

Environmental Justice

The proposed Project appears to be in violation of the federal EPA policy regarding Environmental Justice which presents a potentially significant adverse impact in the area of Land Use and Planning. The federal EPA not only issues threshold formulas for emissions, soils and other areas that may potentially adversely impact the environment, it also has an established policy on Environmental Justice. It takes into account several of the factors that exist at this Site. One such factor is the number of existing hazardous waste facilities. According to the DEIR, all within '/, mile there are 13 sites listed on the RCRIS list, three sites on the CHMIRS list, five sites on the CORTESTES list, two sites (including the Applicant) on the CA SLIC list, ten sites on the CalSites Program Information System Inventory, six sites on the Leaking Underground Storage Tank Information System list, and two sites on the Solid Waste Information System list. This number of existing hazardous waste facilities meets the type of criteria which triggers environmental justice issues with the federal EPA. The DEIR does not discuss this possible land use policy violation nor does it offer any mitigation to assist with such a policy violation.

Response 2-15

DTSC is committed to environmental justice issues and works closely with environmental justice organizations to ensure that everyone who lives in California is equally protected from adverse environmental impacts, regardless of color, national origin, or income. DTSC has developed a draft policy on environmental justice that complies with State mandates. Additionally, although federal standards regarding Environmental Justice have not been finalized, DTSC continues to work closely with U.S. EPA on Environmental Justice issues. Any concern raised regarding environmental justice violations is taken very seriously, and prior to initiating outreach activities, DTSC evaluated the surrounding community for issues

regarding language, income level and the potential for environmental justice to be an issue. The outreach efforts reflected that assessment.

DTSC believes that its expanded public outreach program for this project was conducted taking in consideration the community's needs. Following are the outreach activities that provided the community with opportunities to participate in the decision-making process.

- Surveys were translated into Spanish
- Fact Sheet were translated into Spanish
- Comment forms were translated into Spanish and a self addressed stamped envelope was provided
- Public notice was published in Eastside Sun (English and Spanish newspaper)
- Aired radio announcements on Que Buena (Spanish radio station)
- Translator was available at the Public Hearing
- The executive summary of the draft EIR (dEIR) was translated into Spanish and posted on DTSC web site
- Environmental justice organizations were notified (environmental justice organizations are DTSC mandatory mailing list).

While DTSC understands the commentator's concerns, it has determined that no significant health issues were identified for the proposed project, and any land use planning issues are handled by the local government. The proposed project's potential impacts on all receptors, including environmental justice communities were addressed in the analysis of potential adverse impacts. The analysis identified that the proposed project will not cause a significant adverse impact on most resources; therefore, it will not affect anyone living in the surrounding communities.

Air quality (NOx emissions) is the only source with the potential for significant impacts to be mitigated. As discussed in the No Project Alternative, NOx emissions without the proposed project are expected to be higher because trucks would be required to travel greater distances to recycling facilities, generating more emissions throughout the state. The proposed project is not expected to have significant localized air quality impacts as truck emissions are spread throughout southern California.

The comment incorrectly states that there are a number of hazardous waste facilities within ½ mile of the ISOCI facility and refers to a Section 3.7.1.3 of the Draft EIR which states the following:

> "The U.S. EPA maintains the Resource Conservation and Recovery Information System (RCRIS) which include selective information on sites that generate, transport, store, treat and/or dispose of hazardous waste as defined by the Resource Conservation and Recovery Act. ISOCI is listed on the RCRIS list. There are 13 sites within one-half mile of ISOCI listed on the RCRIS list."

A facility that is included on the RCRIS list means that it handles hazardous wastes and includes facilities such as small and large quantity generators of hazardous waste. A facility that is included within the databases only indicates that hazardous wastes are handled at a facility but do not indicate whether a release has occurred.

A new search of the available public records was completed by EDR so that more current data could be provided. A total of 28 properties within the area of ISOCI were identified as known or suspected of contamination. Of the 28 properties, 15 have been closed, 3 are undergoing remediation, 4 are undergoing assessment, one is listed as open, and the 5 remaining sites the status is unknown due to a lack of information provided by the databases reviewed by EDR (see Table 1). It should be noted that the Sears property is included as a "Brownfield site", which means that it is contaminated. The Brownfield program is designed to help states and municipalities to develop cooperative agreements to promote cleanup and redevelopment of specified Brownfield sites.

Comment No. 2-16

The following is a written comment from Julia Stewart representing CRA/LA:

Conflict with Community Plan

The DEIR acknowledges that the proposed Project is located within the boundaries of the Boyle Heights community plan area but does not acknowledge the violation to the community plan. It is a significant adverse Land Use impact with no proposed mitigation. The Boyle Height community plan reads:
"a transition of industrial uses to be developed, where feasible, from intensive uses to less intensive uses in those areas adjacent to residential uses."

The project is proposing more intense industrial uses in a transitional area. Additionally, the community plan also designates the Olympic/Soto site as an area for regional commercial development specifically. The DEIR does not address the land use conflict with the Olympic/Soto site even though it is called out in the Boyle Heights community plan.

There is no discussion about conflicts with the Adelante Eastside Redevelopment Plan even though the DEIR acknowledges the facility falling within a redevelopment "zone".

Response 2-16

DTSC disagrees with this comment.

The Draft EIR discusses the Boyle Heights Community Plan (Community Plan) and the Olympic/Soto regional development (see page 3-89). The comment incorrectly states that there is a land use conflict between the Olympic/Soto site (immediately south) and the ISOCI facility. Please note that there are other industrial uses closer to the Olympic/Soto site than the ISOCI facility.

The Community Plan appears to mitigate the potential incompatible mixture of commercial, residential and industrial that would occur by siting residential areas within commercial areas or near industrial areas by locating retail and office commercial uses along the street frontages (Olympic and Soto) and locating residential uses on the upper levels of structures and portions of the sites facing downtown.

The Community Plan provides the following objective for industrial properties: "To preserve designated industrial lands for industrial uses." The ISOCI facility is an existing industrial land use that expects to continue as an industrial facility. Further, the policies for industrial facilities in the Community Plan are as follows:

"That industrial uses, wherever possible, be clearly defined and separated from other uses by freeways, flood control channels, highways, and other physical barriers." ISOCI is clearly defined, completely fenced, and grade separated from Soto Street so that most of the facility is not visible from Soto Street.

- "That a transition of industrial uses be developed, where feasible, from intensive uses to less intensive uses in those areas adjacent to residential uses." The closest residential area to ISOCI is about one-half mile away from the facility with numerous other industrial and commercial uses in between, including railroad tracks that are heavily utilized to move cargo in/out of southern California.

- "That the City encourages the use of public and private resources designed to stimulate industrial rehabilitation, intensification, and new development." ISOCI is proposing to continue to operate its existing facility, has incorporated a number of

improvements to the facility over the years, and is proposing to add new technologies for hazardous waste treatment.

- "That the industrial areas north of the San Bernardino Freeway and west of the Golden State Freeway, west of the Aliso-Pico neighborhood and Santa Ana Freeway, and south of Olympic Boulevard, all of which are located conveniently near transportation facilities, be maintained and improved as a means of providing revenue to the City and employment opportunities for its residents." ISOCI is located in the industrial area that the Community Plan envisions to be maintained and improved.

Based on the above-mentioned reasons, DTSC believes that the ISOCI facility is compatible with the Community Plan.

Please see Responses 2-8, 2-9, 2-10, and 2-11 regarding conflicts with the AERP plan.

TABLE 1
REGULATORY AGENCY LISTED PROPERTIES WITHIN THE VICINITY OF 1700 SOUTH SOTO STREET, LOS ANGELES, CALIFORNIA KNOWN OR SUSPECTED TO BE CONTAMINATED

		DISTANCE AND DIRECTION		EDR REPORT		SITE
SITE	**ADDRESS**	**FROM SITE (miles)**	**REGULATORY LIST**	**Map ID**	**Page No.**	**STATUS**
SO CA GAS CO OLYMPIC BASE	2424 E OLYMPIC BASE	1/2-1NW (H)	CORRACTS	T83	134	Remediation
EKCO METALS	1700 PERRINO PL	0-1/8WSW (L)	CORRACTS, CORTESE, LUST, CA SLIC, DEED	B8	17	Assessment
PACIFIC RESOURCE RECOVERY SVCS	3150 E PICO BLVD	1/4-1/2E (L)	CORRACTS	76	113	?
ARMOLOY OF SO CA INC.	3325 UNION PACIFIC AVE	1/2-1ESE (L)	CORRACTS	90	145	Closed
TRIPLE J TREATMENT CENTER	3650 EAST 26TH ST	1/2-1ESE (L)	CORRACTS	92	149	?
UNITED PARCEL SERVICE	3051 WASHINGTON BLVD E	1/4-1/2 ESE (L)	LUST	56	88	Closed
SEARS CENTER	2650 E. OLYMPIC BLVD	1/4-1/2N (H)	US BROWNFIELDS	67	102	?
EVERGREEN CEMETERY/CREMATORY	3301 001ST ST E	1/8-1/4ENE (L)	CORTESE, LUST	49	82	Closed
EVERGREEN ASSOCIATES	3000 012TH ST E	1/4-1/2E (L)	CORTESE, LUST	57	91	Closed
ARCO #0009	2601 24TH ST E	1/4-1/2WSW (L)	CORTESE, LUST	62	97	Remediation
APA TRUCKING	2634 026TH ST	1/4-1/2SW (L)	CORTESE, LUST	68	103	Closed
CENTRAL REPAIR YARD	2469 WASHINGTON BLVD E	1/4-1/2W (L)	CORTESE, LUST	74	109	Closed
AUTOMOTIVE BATTERY PROD	3211 026TH ST E	1/4-1/2SE (L)	CORTESE, LUST	75	111	Closed
BANK OF AMERICA	3100 OLYMPIC BLVD E	1/4-1/2ENE (L)	CORTESE, LUST	77	123	Closed
ASPHALT PLANT #1	2484 OLYMPIC BLVD E	1/4-1/2NNW (H)	LUST	82	131	Assessment
ACTA NORTH-INDUSTRIAL ASPHALT	1637 PERRINO	0-1/8W (L)	CA SLIC	B9	26	?
SOUTHERN CALIFORNIA ALUMINUM	2829 EAST WASHINGTON BL	0-1/8SSE (L)	CA SLIC	C20	41	Assessment
CAL-DORAN	2830 E WASHINGTON BLVD	0-1/8SSE (L)	CA SLIC	C23	46	Assessment
ACTA NORTH - PRONTO MONEY CO	2520 WASHINGTON	1/4-1/2W (L)	CA SLIC	73	108	Closed
ACTA NORTH - LA CITY DWP	2540 WASHINGTON BLVD E	1/4-1/2WSW (L)	CA SLIC	Q69	105	Closed
ACTA NORTH - LA CITY DWP	2607 WASHINGTON	1/4-1/2WSW (L)	CA SLIC	O59	95	Closed
ACTA NORTH - LA CITY DWP	2630 WASHINGTON	1/4-1/2WSW (L)	CA SLIC	N55	88	Closed
ACTA NORTH - LA CITY DWP	2650 WASHINGTON	1/4-1/2WSW (L)	CA SLIC	N54	87	Closed
STAUFFER CHEMICAL	3200 026TH STREET	1/4-1/2SSE (L)	CA SLIC	P64	100	Open
ALAMEDA CORRIDOR - LA RIVER	2540 WASHINGTON BLVD E	1/4-1/2WSW (L)	CA SLIC	Q70	105	Remediation
SOCO WESTERN CHEMICAL CORP	3270 E WASHINGTON BLVD	1/2-1ESE (L)	NOTIFY 65	89	144	?
HOFFMAN BROS. PACKING CO.	2731 SOUTH SOTO STREET	1/4-1/2S (L)	VCP	58	93	Closed
SEEWACK PROPERTY	3136 EAST 11TH STREET	1/4-1/2E (L)	VCP	78	125	Closed

(L) = Property at an elevation lower than the Site
(H) = Property at an elevation equal to or higher than the Site
(?) = Status of site unknown

Comment No. 2-17

The following is a written comment from Julia Stewart representing CRA/LA:

Good Faith Under CEQA

Section 15151 of the CEQA Guidelines suggests that a good faith effort at analysis of potential environmental consequences be conducted in order to establish the adequacy of an EIR. Such analysis does not need to be exhaustive but rather reasonably feasible. The DEIR does not analyze what is reasonably feasible. There are factual mistakes. The proposed expansion is mischaracterized or understated. Known proposed projects nearby are acknowledged but not analyzed. While the DEIR contains much information, it does not contain all that is reasonably feasible. And overall, it is simply inadequate as an EIR.

Response 2-17

DTSC disagrees with the suggestion that the dEIR was not drafted in good faith pursuant to section 15151 of the CEQA Guidelines. Under DTSC oversight and direction, the dEIR consultant prepared a comprehensive analysis of the project and its potential impacts consistent with the content requirements contained in Article 9 of the CEQA Guidelines (sections 15120 – 15132) and utilizing the significance criteria contained in the Initial Study format provided in Appendix G of the Guidelines. The examination was extensive, as evidenced by the inclusion of specific technical reports and studies documents supporting the conclusions contained in the dEIR. The dEIR and its conclusions are viewed by DTSC as adequate for it to make an informed decision concerning the potential impacts of the project subject to its discretionary decision.

Comment No. 2-18

The following is a written comment from Julia Stewart representing CRA/LA:

Environmentally Superior Alternative and Proposed Mitigation

The environmentally superior alternative is the continued operation of the existing facility as it stands with no expansion. The Agency strongly endorses this as the preferred alternative as it pertains to mitigating adverse land use and planning impacts.
Response 2-18

DTSC recognizes that the CRA/LA endorses the continued operation of the existing facility as it stands with no expansion. However, this alternative would not eliminate any significant land use impacts (the proposed project's impacts on land use are less than significant) or eliminate any other significant impacts (the air quality impacts due to operation of the ISOCI facility would remain significant for NOx emissions). Air quality (NOx emissions from trucks) is the only resource with the potential for significant impacts to remain after mitigation. As discussed in the No Project Alternative, NOx emissions without the proposed project are expected to be higher.

Comment No. 2-19

The following is a written comment from Julia Stewart representing CRA/LA:

The mitigation measures proposed by the Agency include:

- Applicant continues the current operation of size and scale of treating oil and anti-freeze.
- The facility is completely enclosed to eliminate all potential aesthetic, air quality, hazards, odor and land use adverse impacts.
- No new rail spurs are added
- Existing rail spurs are included in the enclosure of the facility
- No extended storage on the rail (and/or trucks) be approved

These proposed mitigations will help to bring adverse land use and planning impacts to a less significant level. Should these mitigations not be certified and the environmentally superior alternative not be chosen as the preferred alternative, the Agency may not find the Project, as proposed, in conformance with the Redevelopment Plan.

Response 2-19

DTSC acknowledges the mitigation measures suggested by the CRA/LA and makes the following comments.

The Part B permit would allow ISOCI to continue to operate its current facility.

The facility is currently enclosed behind fences and not generally visible to the public. No significant impacts have been identified for aesthetics, hazards, odors or land use. Air quality (NOx emissions from trucks) is the only resource with the potential for significant impacts to remain after mitigation. As discussed in the No Project

Alternative, NOx emissions from trucks without the proposed project are expected to be higher.

- No new railspurs are proposed to be added to the ISOCI facility. The facility currently has two railspurs constructed and is not proposing to add any more.

- The existing railspurs are located within the confines of the existing facility and behind enclosed fences.

- The maximum storage allowed in railcars is one year. The average storage time is expected to be several days as railcars are leased for a specific period of time.

Comment No. 3-1

The following is a written comment from Curtis D. Williams representing USC:

The University of Southern California (USC) Health Sciences Campus is located in substantially close proximity to Industrial Service Oil Company, Inc (ISOCI), which is seeking a hazardous waste permit from the Department of Toxic Substance Control (DTSC) to continue its existing operations and to significantly increase the types and amounts of hazardous materials received at the site.

Response 3-1

The USC Health Sciences Campus is located about 3 miles northwest of the ISOCI facility.

Comment No. 3-2

The following is a written comment from Curtis D. Williams representing USC:

USC is concerned that the proposed expansion at the facility poses significant environmental and health risks. The proposed expansion, which we understand will allow for a substantially broader category of toxic chemicals and materials to be handled at the site, is particularly disconcerting given that as recently as March 2005 1SOCI entered into a consent order with DTSC for alleged violations of California's Health & Safety Code at the facility. Environmental and health risks associated with the proposed expansion in and of themselves are potentially significant; when considered with the

facility's past history of noncompliance, they arguably are unavoidably significant. The project therefore should not be approved as currently proposed.

Response 3-2

DTSC appreciates the concern regarding any potential environmental and/or health risks associated with the proposed expansion of the ISOCI facility. DTSC's takes its responsibility to protect human health, safety, and the environment very seriously. In an effort to ensure that a project does not pose significant environmental and/or health risks, a health risk assessment (HRA) has been prepared. Here, the health risks associated with the proposed project (continued operation of the existing facility and proposed expansion) were evaluated in the dEIR and a HRA was prepared for the ISOCI facility that evaluated the potential toxic air contaminants (TACs), estimated the facility emissions of TACs, and estimated the potential health risks to the surrounding area (please see the dEIR pages 3-38 through 3-45 and the HRA). The analyses concluded that the TAC emissions from the proposed project are expected to be less than significant (less than 10 per million) for the Reasonable Maximum Exposed Resident, Reasonable Maximum Resident, and to local sensitive receptors. The toxic air contaminant emissions from the ISOCI facility are also expected to be less than significant for chronic and acute health impacts.

The maximum impacted sensitive receptor was the Lou Costello Recreation Center with an estimated cancer risk of 1 per million for adults and 0.5 per million for children. The location of the Lou Costello Recreation Center is located at 3141 East Olympic Blvd. about one-third mile northeast of the ISOCI facility. The EIR and HRA evaluated other sensitive receptors in the area and all were less than the cancer risk at the Lou Costello Recreation Center (one per million), and most were less than 0.5 per million within about one-half mile from the facility.

The cancer risk at Bishop Mora High School, located about one mile north of the ISOCI facility, associated with emissions from the ISOCI facility is estimated to be 0.03 per million for adults and 0.015 per million for children, well below the significance criteria of 10 per million. The cancer risk at the USC Health Science campus, about three miles north of the ISOCI facility, would be well below 0.001 per million for adults and children and also less than significant.

Comment No. 3-3

The following is a written comment from Curtis D. Williams representing USC:

USC is also concerned that the draft environmental impact report (Draft EIR) may not have been readily accessible, having only been provided for review at two public locations. The California Environmental Quality Act is premised upon public access to information. At a minimum, the Draft EIR should be made available online and the public comment period extended to allow for full public participation.

Response 3-3

DTSC agrees that public participation is a critical component of the CEQA process. To that end, the Draft EIR was made available during the public comment period at the Department of Toxic Substances Control (DTSC) office, located at 1011 N. Grandview Avenue, Glendale, California 91201 and at the Robert Louis Stevenson Branch Library located at 803 Spence Street, Los Angeles, CA 90023. Portions of the document were also posted on the DTSC's web site at:

http://www.dtsc.ca.gov/HazardousWaste/Projects/upload/ISOC_Executive-Summary_HWFP-EIR.pdf.

Finally, the comment period was extended to April 14, 2006, for a total of a 120-day comment period in an effort to provide the community with sufficient time to submit comments to DTSC.

Comment No. 4-1

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Communities for a Better Environment (CBE) submits the following comments on the Draft Hazardous Waste Facility Permit (Part B), Draft Environmental Impact Report (DEIR) and hazardous Risk Assessment (HRA) for the industrial Services Oil Company, Inc. (ISOCI) Hazardous Waste Facility Application. CBE is a California non-profit environmental health and justice organization with offices in Oakland and Huntington Park. CBE is a membership organization with approximately 20,000 members throughout the state of California, including thousands living, working, breathing, owning property, and recreating in the South Coast Air Basin. Many members reside in the Southeast and South central Los Angeles area. CBE's organizational goals include protecting and enhancing the environment and public health by reducing air and water

pollution and minimizing hazards in California's urban areas, including the South Coast Air Basin.

ISOCI currently operates under an interim Status Document that was issued by DTSC in 1986. The Interim Status Document allows the facility to continue operations pending approval of the full Part B permit. ISOCI first submitted art extensive Part B permit application in 1988. The DEIR explains that ISOCI supplemented its application in 1994, 1997, September 2000, October 2002, November 2003, June 2004, and August 2004. *See* DEIR, 2-6. CBE appreciates this first opportunity to comment on this major proposed expansion of the facility.

CBE is extremely concerned about this draft facility permit and the course that DTSC has chosen to get to this point. In the comments that follow, we describe the serious shortcomings in the public process — including lack of Spanish translation and access to documents - and deficiencies in the Part B permit, draft Environmental Impact Report, and Hazardous Risk Assessment document.

ISOCI is located in a highly industrialized area surrounded by low income communities of color who are affected by a large number and variety of polluting sources. There is no buffer /one separating the communities and the industrialized cities and areas. We are therefore watchful of potentially significant cumulative effects that may result from new projects and major expansions. At minimum, these facilities must operate cleanly and responsibly, and follow the applicable laws while the agencies provide residents and workers potentially impacted by the facilities' operations comprehensive information about the facilities' activities and hazards. ISOCI has a long history of violations and has made numerous changes at its facility without environmental review. Moreover, the facility envisages significantly expanding the types of hazardous wastes that it processes. ISOCI's comments reflect our deep concern about this project as proposed and DTSC's apparent lack of interest in educating the public or allowing meaningful involvement in this permitting process.

Response 4-1

This comment summarizes the background of Communities for a Better Environment (CBE) and the ISOCI project, provides general concerns about the public process, Part B permit, Draft EIR, and HRA, and discusses general concerns related to the ISOCI project. Responses to specific concerns are addressed in Responses 4-2 through 4-101.

Comment No. 4-2

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

PUBLIC PARTICIPATION

DTSC's failure to provide Spanish translation, adequately describe the proposed activities, provide an adequate record, and notify concerned parties completely undermined the legitimacy of the public participation component of this permitting process. CBE is concerned that DTSC's methods leave low income people of color out of the process in this significant hazardous waste facility expansion project. CEQA in particular envisions meaningful public participation and is at its core a public participation statute. *See Laurel Heights Improve. Ass'n v. Regents of Univ. of Calif.* (1993) 6 Cal. 4th 1112, 1123

Response 4-2

This comment provides general concerns regarding public participation. Responses to specific concerns are addressed in Responses 4-3 through 4-8.

Comment No. 4-3

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Failure to Provide Spanish Translation

While ISOCI is located in a highly industrialized area surrounded by communities of color, it is specifically sited adjacent to Spanish speaking communities. These fenceline residents have the right to be properly informed about permitting actions at this facility. In fact, DTSC's environmental justice principles require that environmental and health-related information be provided to low-income and minority communities in appropriate languages. But DTSC only provided Spanish translation for the public notice, a four-page fact sheet, and at one page comment form. DTSC failed to provide translation for any of the permit-related or environmental review documents. At the very least, core documents

related to the permit action, such as the health Risk Assessment and DEIR, should have been translated into Spanish so that potentially impacted communities could be informed about possible risks to them from the facility. In fact, DTSC was required to post Spanish translations of these documents on its website. After DTSC has made available Spanish translations of the appropriate documents, it should hold a public hearing to gather the community's responses to the permit action.

Response 4-3

Please see Response 2-15.

DTSC believes that environmental justice is an important component of public participation and is fully committed to addressing any and all issues related to environmental justice. The commentor correctly cites to DTSC's policy on environmental justice, available at:

http://www.dtsc.ca.gov/lawsregspolicies/policies/envjustice/upload/oea_pol_drafte.j.pdf

Please see Responses 1-2 and 1-3 with respect to Spanish translation. As indicated in those comments, Spanish translation for project-related information was made available to the public.

Comment No. 4-4

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Failure to Adequately Describe Proposed Activities

The Notice must apprise the public of significant proposed activities that may be of importance to concerned parties. In this case, DTSC's Notice did not inform the public of the facility's proposal to take 380 RCRA waste codes in addition to the simple used oil and antifreeze the facility currently accepts. The Notice failed to inform the public of the facility's proposal to store 250,000 gallons of hazardous waste in relatively unprotected rail cars at the facility without an adequate containment system. The Notice also paints an unrealistic picture of the facility's long history of noncompliance with hazardous waste laws and regulations.

Response 4-4

DTSC disagrees with the comment that the Public Notice was inadequate. The purpose of a public notice is to notify those persons described in California Code of Regulations, title 22, section 66271.9, subsection (c) of a proposed action such as a permit application. The public notice is meant to serve as guidance for all interested persons as to where they may find more detailed information about a proposed project. The Public Notice included all information required pursuant to the California Code of Regulations, title 22, section 66271.9. The Introduction stated, in part: "…[I]n the Permit application, ISOCI requested to expand and to modify its current facility operations, including an increase in production capacity and the types of waste managed…" While the Public Notice did not explain in detail what the proposed expansion consists of, it did notify the public that changes are proposed at the ISOCI facility. It then directed the public to the draft permit and associated documents as well as DTSC staff for further information. It also advised the public of a public hearing that anyone who was interested could attend.

The dEIR and draft Permit provide an accurate and more detailed description of the proposed project including additional waste codes that may be accepted by the facility, the amount of hazardous waste that may be stored, and the location of the storage facilities, including the railcar storage.

DTSC believes that the rail car loading and unloading unit is adequately protective of the environment. The rail car loading and unloading unit has a dedicated spill containment tank with a capacity of 58,748 gallons. A pumping system is activated in the event of a spill and materials are pumped from the containment facility to a stationary storage tank. The system has two pumps for redundancy and a back-up generator to supply power in the event of a power failure.

A discussion of the ISOCI facility compliance history has been revised and may be found in the dEIR (please see pages 2-20 and 2-30).

Comment No. 4-5

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Failure to Notify Concerned Parties

DTSC's official mailing list for this permit action appears to be based on a list of parties who attended or expressed interest in a public meeting concerning the facility held at the Louis Costello Senior Citizen Center in Los Angeles on February 28, 1996. While the list may have been accurate in 1996, it no longer is accurate ten years later. For example, few of the elected officials on DTSC's list are still representatives of the affected community. As a result, many of the concerned parties that DTSC attempted to notify about the pending permit action did not receive actual notice. DTSC must update its official mailing list for this permit action and re-notice all relevant proceedings.

Response 4-5

DTSC disagrees that the Public Notice mailing list was inadequate so that interested individuals were not notified. See Response 1-3 regarding DTSC's public outreach program. Please note that DTSC had previously updated its mailing list as explained below, added additional concerned citizens and parties that had requested to be added, provided additional notice of the availability, and extended the public comment period on the draft Permit and dEIR, as requested by this and other comments.

A new mailing list of community addresses covering a quarter-mile radius of the facility was provided to DTSC in August 2005. ISOCI's consultant, EP Consultants, purchased this list from MiniMailers (a mailing house) that works with a national database compiler to obtain mailing lists. The list is updated on a monthly basis. DTSC Public Participation Specialist (PPS) requested EP Consultants to provide a map of the area covered. The PPS verified the map and list using The Thomas Guide®. DTSC also conducted a site visit and identified the streets on the mailing list. EP Consultant was also requested to provide an up-to-date list of elected officials and other interested parties. DTSC verified this list by calling the offices and through internet research. Additionally, the current DTSC mandatory mailing list of organizations was also notified.

Comment No. 4-6

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Reasonable Access to Permit Related Documents and Adequate Record Not Provided

First, the core documents related to the proposed action - e.g. the DEIR and HRA – were largely inaccessible to the communities that DTSC should have targeted and to out of town consultants. The DEIR specified only that copies of the DEIR and Part B Permit Applications were available at DTSC's Glendale office. The catch was that each interested person had to visit the office during business hours to obtain a copy of the said documents. DTSC would not provide the documents upon request in any form. I personally submitted written and oral requests for the documents, both of which were denied. A consultant had to bring a scanner to the library and copy each page of the relevant documents in order to begin project review. Eventually, a call to a public participation officer yielded a copy of the core documents.

The Public Notice indicated that core documents would be available for review at one public library, also during business hours. It was necessary to provide one's own scanner or pay 15 cents per page for hundreds of pages to truly review the documents. Moreover, the documents upon which the draft HRA, permit and EIRs relied were available only by appointment at DTSC's office. Consequently, there was in actuality little chance that anyone could sufficiently review the project. DTSC must make these documents available on its website, or provide mailed hard copies or compact discs upon request. Given the scope and nature of ISOCI's proposed project, public awareness, access and participation are critical, and DTSC should not work to undermine these values.

Response 4-6

DTSC apologizes for any misunderstanding or delays in obtaining the dEIR and HRA. DTSC has and will continue to provide copies of the documents on request. DTSC's Administrative Services Branch has no record of a Public Records Act Request (PRAR) from CBE. If a PRAR had been made it would not have been denied. During the public comment period, key documents are available for review at the public repositories (DTSC's Glendale Regional Office and the Robert Louis Stevenson Public Library in this case) without an appointment. In order to review the complete administrative record, a PRAR and appointment with DTSC is necessary. DTSC's policy regarding PRARs is to have a requester submit a PRAR, in any format-fax, telephone, email, letter-and then schedule an appointment with DTSC to review/copy documents at the DTSC office where documents are. DTSC will copy up 50 pages at $.15 /page for any PRAR and, beyond that, the requestor must provide a copy service to copy additional documents. DTSC receives numerous PRARs and unfortunately, due to its very limited resources, is unable to accommodate a request to copy files for each requester. As a result, a request that DTSC make copies of the documents requested may have been denied. However, consistent with DTSC's PRAR Policy, CBE was invited to schedule an

appointment and come to the DTSC office with a copying service and make copies of documents.

Please see response to comment 18-1 for information regarding DTSC's policy of posting permit related documents on its website.

Comment No. 4-7

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Even for those who succeeded in getting to DTSC's office, DTSC did not make the entire administrative record available at the beginning of the public comment period. Many files and documents associated with the facility were not readily available for review and several weeks passed from the time a formal request was made to review those files until they were actually made available for review. Upon review of the files that were made available, it was apparent to one consultant that important documents and files, including recent correspondence and permit compliance corrective action records, were missing. The content of those important documents and files apparently pertain to the overall operational requirements and history of the facility.

Documents relating to DTSC's completeness determination of the Part B permit application were unavailable to persons sent to review the facility files at the DTSC office. There is not sufficient time during a 60-day comment period for the public to make that completeness determination themselves. All working files of the DTSC permit writer for the facility should be made available for review so that the public can evaluate DTSC's determinations regarding permit application completeness.

It is our understanding that even today, the available record remains incomplete. In addition, much of the record that was made available is not in any coherent order. Failure to provide an adequate, organized, and complete record precludes adequate public review of the significant environmental impacts of a project and is a recognized basis for refusal to approve an EIR. *See Protect Our Water v. County of Merced* (2003} 110 Cal.App.4th 362, 372-73. CBE requests that DTSC restart the public participation process with a new public comment period and make available for public review by the beginning of that period an adequate, organized, and complete administrative record for the permit action, including all working files of the DTSC permit writer for the facility.

Response 4-7

DTSC apologizes for any miscommunication or difficulties regarding the availability of the administrative record. It is DTSC's understanding that the entire administrative record, as defined in the California Code of Regulations, title 22, section 66271.8, was available at the location stated in the Public Notice at the beginning of the public comment period. The administrative record for the ISOCI facility is available and spans a 20-year period, resulting in numerous and voluminous files. DTSC maintains files by program (site mitigation, statewide compliance, etc.) in chronological order, with the most recent documents at the front of each file. Unfortunately, during the public comment period, reviews by the public are continuous and it is sometimes difficult to maintain the file as precisely as DTSC would like. It was possible for any member of the public to view the key documents regarding the draft Permit and draft EIR without an appointment. However, an appointment with DTSC is necessary to view the complete administrative record. DTSC apologizes for any inconvenience caused during the public comment period. As requested, an additional 60 days was added to the public comment period, in part, to ensure that any and all interested persons had the opportunity to review the administrative record and submit comments to DTSC.

Comment No. 4-8

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

ISOCI is proposing to store up to ten rail cars, each containing up to 25,000 gallons of hazardous waste, on its rail spur at any one time, for up to one year. This is equivalent to this amount of time that hazardous waste would be stored in long-term stationary tanks, which are surrounded by secondary containments and regularly assessed and recertified. ISOCI has installed a rail car containment system comprised of spill pans underneath the area where each rail car would be parked. Long-term (up to one year) storage of hazardous waste in this many rail cars that do not meet the regulatory requirements for long term storage is simply unsafe.

Response 4-8

The Rail Car Loading and Unloading Unit is regulated as a bulk container storage unit as defined in California Code of Regulations, title 22, section 66260.10, which states, in part, : "Bulk Container" means any container or container-like vehicle, other than a

vessel or a barge, with a capacity greater than 110 gallons (416 L), which is used to transport hazardous waste(s), hazardous material(s), hazardous substance(s), or recyclable material(s) in bulk by air, highway, rail, or water, including, but not limited to, cargo tanks, vacuum trucks, roll-off bins, rail tank cars, and intermodal containers."

DTSC has determined that this unit complies with all of the regulatory requirements for a Container Storage Unit as specified in California Code of Regulations, title 22, Division 4.5, Chapter 14, Article 9, including the requirements for secondary containment listed in California Code of Regulations, title 22, section 66264.175. These requirements include: (1) an underlying base that is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed; (2) a sloped base to drain and remove liquids resulting from leaks, spills, or precipitation; (3) sufficient capacity to contain precipitation from at least a 24-hour, 25-year storm, plus 10% of the aggregate volume of all containers or the volume of the largest container, whichever is greater; (4) the prevention of run-on into the containment system unless the collection system has sufficient excess capacity to that required in (3) above to contain any run-on which might enter the system; and (5) the removal of any spilled or leaked waste and accumulated precipitation in as timely a manner as is necessary to prevent overflow of the containment system.

The Rail Car Loading and Unloading Unit, as described in the Part B Hazardous Waste Permit application, states "Tank 800 (Figure IV-26) which is reserved for rail car spills has 55,748 gallons capacity and has over two times a rail car's capacity (25,000 gallons)." In addition, "Drains in the railroad spill containment structure drain to a below grade sump where two Wilder M-15 (or equal) pumps are located. These pumps operate automatically by operation of a float switch and direct the collected liquid, using a dedicated pipeline into Tank 800 for protection of the environment. Two pumps are provided for redundancy providing dependable operation. An emergency generator is permanently located on the facility and wired to operate the pumps in the event of a commercial power failure." Tank 800 meets the requirement that "the containment system shall have sufficient capacity to contain precipitation from at least a 24-hour, 25-year storm, plus 10% of the aggregate volume of all containers or the volume of the largest container, whichever is greater." The total volume of precipitation from a 24-hour, 25-year storm is 27,495 gallons.

California Code of Regulations, title 22, Division 4.5, Chapter 14, Article 9 does not require containers to be regularly assessed and recertified similar to long-term stationary tanks. However, the Department of Transportation requires periodic testing and inspection of railcars that is equivalent to stationary tanks. The requirements

include hydrostatic testing every 5 years and internal inspection every 2 ½ years. See 40 Code of Federal Regulations Part 173.

Comment No. 4-9

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The regulations for tank secondary containment require that a tank be operated within an impermeable containment structure that is capable of holding 10 percent of the aggregate volume of all the tanks situated inside the containment, or the total volume of the largest tank situated inside the containment, whichever is greater, plus sufficient additional capacity to contain precipitation from associated with a 25 year storm. *See* 22 CCR 66264.193. This amount of capacity is sufficient to contain a catastrophic release from one of the tanks. While the rail spur spill pans may be sufficient for a small spill or slow leak, their bulk storage capacity is a small fraction of the 25,000 gallons of hazardous waste that may be stored in a single rail car, and they will be unable to contain a catastrophic release from a rail car. Not only can a spill pan not contain that volume, the sump pumps could not handle such a volume of liquid if it was released to the spill pan in a short period of time. In short, it appears ISOCI proposes to store hazardous waste in rail car to avoid the stringent requirements that apply to storage tank.

Response 4-9

Please see Response to Comment 4-8. As explained in Response to Comment 4-8, the rail car is defined as a "bulk container" and not a "tank system". As a result, the tank system regulations, found in California Code of Regulations, title 22, Division 4.5, Chapter 14, Article 10, do not apply to rail cars. However, Tank 800 is subject to California Code of Regulations, title 22, Division 4.5, Chapter 14, Article 10, including secondary containment requirements.

Additionally, each sump pump has a capacity of 230 gallons per minute. In an event of a catastrophic release from a rail car, it would take less than 2 hours to pump the entire contents of a 25,000-gallon railcar to Tank 800, which is a tank specifically dedicated to contain spills from the railcar loading and unloading unit.

Comment No. 4-10

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

ISOCI's secondary containment system for the rail cars is inadequate because it relies on fully functional pumps and a compressor in the event of a controlled release to convey the contents of the secondary containment into a storage tank, which in turn assumes fully functional mechanical equipment. In the event of a catastrophic release, such as tank rupture, the secondary containment system could not hold the maximum potential volume of hazardous wastes, which would result in significant adverse impacts to human health and the environment. The Part B permit application provides no justification for selection of this alternative rather than a full containment system.

Response 4-10

Please see Response to Comments 4-8 and 4-9. The Rail Car Loading and Unloading Unit, as described in the Part B Hazardous Waste Permit application, states "Tank 800 (Figure IV-26) which is reserved for rail car spills has 58,748 gallons capacity and has over two times each rail car's capacity (25,000 gallons per rail car)." In addition, "Drains in the railroad spill containment structure drain to a below grade sump where two Wilder M-15 (or equal) pumps are located. These pumps operate automatically by operation of a float switch and direct the collected liquid, using a dedicated pipeline into Tank 800 for protection of the environment. Two pumps are provided for redundancy providing dependable operation. An emergency generator is permanently located on the facility and wired to operate the pumps in the event of a commercial power failure." Tank 800 meets the regulatory requirement that "the containment system shall have sufficient capacity to contain precipitation from at least a 24-hour, 25-year storm, plus 10% of the aggregate volume of all containers or the volume of the largest container, whichever is greater." The containment system is not required to hold the maximum potential volume of hazardous wastes. Based on this requirement, the secondary containment for the Rail Car Loading and Unloading Unit must contain 52,495 gallons. The spill containment regulations for tank systems do not prohibit pumps and allow for alternative containment systems. DTSC has determined that the proposed spill containment system for the Rail Car Loading and Unloading Unit is protective of human health, safety and the environment.

Comment No. 4-11

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Integrity assessments are performed on hazardous waste tanks every three to five years, and those assessments are certified by a registered, professional engineer. One component of a tank integrity assessment in California is a seismic evaluation. In order to withstand seismic forces, tanks are typically bolted to their foundation or secured by natal "straps" that are bolted to the ground. Under the applicable regulations, rail cars are not required to have integrity assessments and therefore are not seismically certified. A full rail car sitting on a rail spur lacks seismic stability and could tip over in an earthquake.

Response 4-11

Comment noted. Seismic evaluation for the railcars, which are regulated as bulk containers, are not required by the California Code of Regulations, title 22, Division 4.5, Chapter 14, Article 9. Again, please note that DTSC has determined that the proposed spill containment system for the Rail Car Loading and Unloading Unit is protective of human health, safety and the environment.

Comment No. 4-12

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

As with ISOCI's proposed rail car containment system, the truck loading and unloading area is not designed to contain the contents of a truck fully loaded with hazardous waste. The truck loading containment system relies on pumps and controls similar to the rail-car siding containment systems, coupled with manual closure or valves, to prevent overflow of hazardous waste from a major spill into the undersized containment pads. The Part B permit application provides no justification for selection of this alternative ("operate to contain") rather than full containment. It is unclear to CBE why the truck loading containment system was not designed to comply with federal requirements for spill containment. The truck loading containment system must be redesigned to incorporate redundancy features and to be sized appropriately. DTSC should require ISOCI to demonstrate why an "operate to Contain" system is the only viable alternative.

Response 4-12

DTSC is responsible for overseeing the State's hazardous waste management program to protect public health and the environment. In 1991, the U.S. Environmental Protection Agency (U.S. EPA) authorized California to implement the federal Resource Conservation and Recovery Act (RCRA). The authorization was based on the determination that the California Code of Regulations, title 22, Division 4.5, incorporates that portion of Title 40 of the Code of Federal Regulations (40 CFR) which contains the federal hazardous waste regulations. RCRA authorizes states, including California, to promulgate and implement regulations more stringent than those adopted by U.S. EPA (42 U.S.C. ' 6929.) As a result, the California program is generally more stringent and broader in scope than the federal program. Any person(s) managing hazardous waste in California must comply with State law.

The truck loading and unloading area is regulated pursuant to California Health and Safety Code section 25200.19 (Section 25200.19). Subdivision (c), paragraph (4) of Section 25200.19 states, in part, that "The loading or unloading of bulk hazardous waste shall be conducted within the hazardous waste facility with a containment device or other system capable of collecting and containing leaks and spills that may reasonably be anticipated to occur during loading and unloading operations until the leaked or spilled material is removed, unless otherwise approved by the department in a regulation or permit."

However, Section 25200.19 does not require that the containment device contain the contents of a truck fully loaded with hazardous waste. It only requires the containment device to contain leaks and spills that may reasonably be anticipated to occur during loading and unloading operations until the leaked or spilled material is removed. As stated in the Part B Hazardous Waste Permit application, there are five separate truck loading and unloading areas at the facility with capacities ranging from approximately 1500 to 2500 gallons. Each is surrounded by a 4-inch berm to contain spills that may occur during the short-term transfer process. DTSC has determined that the capacities in each of the truck loading and unloading areas are sufficient to comply with Section 25200.19.

Comment No. 4-13

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

ISOCI seeks to receive, handle, manage, and treat hundreds of additional chemicals (hazardous wastes). By their very nature, hazardous wastes can exhibit adverse physical, chemical, and reactive properties, especially when handled improperly or mistakenly. Waste analysis of numerous processes, complex blends, and variable chemicals received from hundreds of generators, as is the case here, can be extraordinarily challenging and dangerous, especially since it is not uncommon for generators to improperly profile their waste, blend other wastes in order to dispose of material, or otherwise commit mistakes. The Waste Analysis Plan ("WAP") described in ISOCI's Part B Permit application is complex, difficult to understand, and would be very challenging to implement even with highly educated and trained personnel.[4]

As an initial matter, ISOCI should explain its staffing plan for implementation of the WAP. ISOCI also should describe in detail the qualification requirements for persons who will be responsible for implementing the plan, making decisions regarding waste acceptance, waste consolidation and wastewater treatment compatibility, selecting methods of analyses, completing in-house analyses, and providing analytical quality control. The WAP states that waste analysis tasks, including sampling, "normally" will be accomplished by trained personnel. "Normally" is not acceptable; all personnel must have a chemistry background in order to understand and implement the plan, properly manage wastes and data, minimize mistakes, and avoid potentially dangerous chemical hazards. DTSC must ensure that ISOCI's staffing and training plans are commensurate with the complexity of the WAP and likely waste streams.

Response 4-13

DTSC has determined that ISOCI's Waste Analysis Plan (WAP) and Personnel Training meet the requirements of section 66264.13 and section 66264.16, title 22, California Code of Regulations. Figure III-2 exists in the Part B application and has been evaluated. It is available for public viewing upon request.

The applicant has supplied DTSC with a personnel training outline in the Part B application. All ISOCI personnel that will handle hazardous waste will be required to have extensive training prior to performing any job duties that involve the handling of hazardous waste. This includes training that complies with OSHA HAZWOPER 24-hour requirements (ref: Part B application, Volume III, Section IX).

Comment No. 4-14

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The WAP is unclear as to which analyses will be completed in-house by ISOCI compared to analyses that will be performed by outside laboratory services. DTSC must insist on clarification so that laboratory facility, staffing, training, waste disposal, reagent usage, and safety issues can be properly evaluated. Furthermore, it is unclear where "mixing experiments" will be performed. If such experiments are performed in ISOCI's in-house laboratory, it is important that the laboratory have a forced-air safety hood.

Response 4-14

The statute and regulations do not specify that analyses be performed by either an in-house or outside laboratory. California Code of Regulations, title 22, section 66264.13 specifies the requirements that ISOCI must follow in order to be in compliance regarding waste analysis. Section III, Item D.5, page 10 of 24 of the Part B application states that, "Many of the pre-acceptance tests, all certification analyses of treated oil, and analyses of LDR will be performed by an off-site certified laboratory. In such cases, the laboratory will supply appropriate chain-of-custody forms, procedures, and quality assurance information as part of the laboratory analytical report.

Screening tests will normally be accomplished at the facility by trained personnel. Analyses of effluent wastewater and waste solids form the stabilization treatment process will also be accomplished by an off-site certified laboratory." Table III-3, titled, "Waste Sampling and Analytical Methods" indicates parameters, rationale for testing, and testing methods that will be used during laboratory analyses. Table III-4, titled "Testing Parameters by Waste Stream" indicates operation, waste stream, testing parameters (by waste profile and by fingerprint analysis).

The location of "mixing experiments" and whether a forced-air safety hood is required in the laboratory are not issues over which DTSC has authority. California Occupational Safety and Health Administration (Cal/OSHA) is the agency that regulates these safety issues.

Comment No. 4-15

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The WAP does not discuss the frequency of waste acceptance verification or "fingerprint" testing or incoming hazardous waste streams and methods for performing such analysis. The plan should be strengthened to include a prescriptive table showing each unit operation and the point during each handling and processing step that samples will be required. ISOCI personnel who will be responsible for implementing the WAP should approve the plan. The WAP implies that ISOCI will test each incoming waste shipment. Most hazardous waste facilities do not test every shipment, so it is doubtful that ISOCI will test every incoming waste shipment that arrives at the facility. This concern is heightened because the WAP discusses reliance on annually certified generator profiles for incoming hazardous wastes. While other hazardous waste facilities rely on generator profiles, they also perform confirmatory testing on a percentage of incoming wastes to verify the accuracy of generator profiles. ISOCI should clarify in the WAP the frequency and methodology of "fingerprint" testing for incoming hazardous waste streams. If ISOCI intends to use different testing frequencies for different types or hazardous waste streams, those should be described.

Response 4-15

ISOCI, pursuant to its WAP, is required to sample each shipment of waste prior to acceptance at the facility. Section III of the Part B application, titled “Waste Characteristics”, also serves as the ISOCI Waste Analysis Plan (WAP). The WAP discusses the frequency of waste acceptance verification (known as “fingerprint” testing) for incoming hazardous waste streams. Section III, Item C.7, page 6 of 24, of the Part B application states, “At a minimum, one sample will be obtained for fingerprinting analysis from each bulk load of waste received by the facility. For containerized waste, a minimum of 10 percent of the total number of containers of each type of waste received from each generator will be sampled for fingerprint analysis.” The WAP also discusses the methods for performing such analyses. Table III-3, titled “Waste Sampling and Analytical Methods” lists the USEPA approved methods to be used to test wastes received by the facility. Table III-4, titled “Testing Parameters by Waste Stream” indicates which method will be used at each particular waste stream in the facility. The facility is also required to comply with all provisions of California Code of Regulations, title 22, Article 2, Chapter 20, Division 4.5 regarding the requirements for the Permit Application.

Comment No. 4-16

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

According to Table III-1 of the application, ISOCI expects to manage or treat in the future many tons of hazardous wastes, such as phenols, pesticides, nitrogenous organics, and substituted benzenes. CBE requests that DTSC clarify the methods for analyzing these types of chemicals, and whether ISOCI has determined if adequate laboratory methodologies are available to quantify all chemicals listed on Table III. Considering that ISOCI is planning to receive numerous waste types containing "chrome", CBE also requests that DTSC clarify the method for analyzing hexavalent chromium, which is toxic to humans. CBE notes that for purposes of waste characterization, methods for analyzing VOCs and SVOCs should be changed to U.S. EPA SW846 Methods 8260b and 8270c.

Response 4-16

To evaluate the ISOCI WAP, DTSC is following the United States Environmental Protection Agency's (U.S. EPA) April 1994 guidance manual titled, "Waste Analysis at Facilities that Generate, Treat, Store, and Dispose Of Hazardous Waste." Section 2.2 of this guidance manual, titled "Selecting Waste Analysis Parameters," states that, "An accurate representation of a waste's physical and chemical properties is critical in determining viable waste management options.

Accordingly, facility WAPs must specify waste parameters that provide sufficient information to ensure:

- Compliance with applicable regulatory requirements (e.g., LDR regulations, newly identified or listed hazardous wastes)

- Conformance with permit conditions (i.e., ensure that wastes accepted for management fall within the scope of the facility permit, and process performance standards can be met)

- Safe and effective waste management operations (i.e., ensure that no wastes are accepted that are incompatible or inappropriate given the type of management practices used by the facility)."

Section 2.6 of this guidance manual, titled “Special Procedural Requirements,” states that, “An off-site facility should, at a minimum, visually inspect and compare the contents of each shipment to the accompanying manifest to identify the wastes. The shipment received on site should be sampled and analyzed to the extent necessary to verify that it meets permit specifications and regulatory requirements.” Furthermore, this section states, “Shipment screening is especially necessary for off-site facilities given the variety of wastes typically managed. The level of screening required for an off-site facility is a function of the facility operator’s knowledge about the generation process. Off-site facilities should require that the generator provide detailed information regarding:

- The process that generates the waste
- The physical and chemical description of the waste
- The analytical procedures and results used to characterize the waste or process knowledge documentation
- EPA hazardous waste codes
- Certifications and notifications as applicable to LDR wastes.”

Section 2.6 continues: “Fingerprint analysis, including the application of associated analytical test methods, should be performed during the pre-acceptance phase of waste management as a complement to information gained from the generating facility. Typically, waste shipments are sampled and analyzed for a few key chemical and physical parameters to substantiate the waste composition designated on the accompanying shipping paper or manifest.”

Also, section 2.6 states, “Generally, at a minimum, at least two parameters should be selected for fingerprint analysis of wastes prior to acceptance at an off-site TSDF.”

Figure III-1 (Pre-acceptance Procedures) of the Part B application outlines the methodology the facility will use during the pre-acceptance phase of waste screening. Figure III-2 (Waste Receiving Procedures) of the Part B application outlines the methodology the facility will use during the receiving phase of waste screening.

DTSC has determined that ISOCI’s WAP meets the criteria stated in the guidance manual including, but not limited to: ensures that wastes accepted for management fall within the scope of the facility permit, ensures that no wastes are accepted that are

incompatible or inappropriate given the type of management practices used by the facility, requires that the generator provide detailed information, and has chosen waste parameters based the criteria stated in the guidance manual, and thus is able to quantify the hazardous wastes allowed to be received and/or rejected at the facility.

ISOCI has also stated in the Part B application (Section III, Item D, "Waste Analysis Procedures") that wastes received at the facility will be pre-acceptance analyzed (profiled) using a certified laboratory and fingerprint analysis using EPA Method SW-846, which are the accepted DTSC guidelines for waste analysis.

Although there is no regulatory limit for receiving waste containing total chromium, ISOCI or the generator analyzes received waste for total chromium to provide handling information for specific waste streams. ISOCI also analyzes treated oil for total chromium to determine if it meets recycled oil certification standards. The regulatory total chromium limit for recycled oil certification is ≤10 ppm (California Health and Safety Code section 25250, subdivision (a)(3)(B)). Additionally, ISOCI analyzes treated wastewater for total chromium to determine if it meets local discharge limits prior to discharge to the public sewer system. The City of Los Angeles sewer discharge limit for total chromium is ≤10 ppm. Please note that because hexavalent chrome is regulated as a component of total chromium, a separate analysis for hexavalent chrome is not required at this time.

DTSC agrees that for purposes of waste characterization, the methods for analyzing VOCs and SVOCs should be changed to EPA SW 846 Methods 8260b and 8270c, respectively. In addition, Method 8010a will be replaced by 8021b, Method 8080 will be replaced by 8082, Method 9040/9040b will be replaced by 9040c, and Method 9045c will be replaced by 9045d. A special condition has been added to Part V of the permit (special condition 2s) to reflect these changes.

Comment No. 4-17

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The WAP and Part B Permit application contain several confusing or inconsistent statements. For example, the Part B Permit application states that reactive wastes will not be accepted at the facility. At the same time, Table III-1 of the application includes cyanide-containing wastes F007 through F011, which can be reactive. DTSC must clarify whether ISOCI proposes to accept

cyanide-containing wastes at the facility. Moreover, the proposed waste acceptance and profile forms do not appear to require generator-provided hazardous waste codes. These codes should be required to improve the facility's ability to screen out unacceptable wastes.

Response 4-17

DTSC agrees that cyanide-containing wastes may be classified as F007 through F011 wastes. While most cyanide-containing wastes are reactive, there may be wastes that fall into the classification of F007-F011 but do not meet the criteria specified in California Code of Regulations, title 22, section 66261.23 for the characteristic of reactivity. ISOCI may accept wastes that fall into the classification of F007-F011 as long as they do not exhibit the characteristic of reactivity (D003). Please note that a hazardous waste may be classified by more than one EPA waste number and must be listed by all waste numbers when a listing is required. A special condition has been added to Part V of the permit (special condition 2q) which prohibits the facility from accepting wastes that exhibit the characteristic of reactivity.

The waste profile form for non-RCRA wastes contains a requirement for the generator to include California waste codes for specific wastes. This entry is located in section “B. Waste Description” of the proposed waste profile form. The proposed waste profile form for RCRA wastes contains a requirement for the generator to include EPA waste codes for specific wastes. This entry is located in section “D. Regulatory Information” of the proposed waste profile form.

Comment No. 4-18

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Under the terms of the Part B Permit application, the facility is not permitted to accept or treat polychlorinated biphenlys (PCBs). CBE is confused as to why the plan sets limits of 2 mg/L and 49 mg/L for PCBs in oil treatment and fuel blending operations, respectively. DTSC should clarify the regulatory significance of those values, which appear to be derived from Toxic Substances Control Act (TSCA) requirements. At minimum, DTSC must clarify whether the facility will take PCBs, provide justification for the prescribed limits, identify the adequacy of the detection limits for PCBs, dioxins, and other congeners, and then characterize the potential impacts due to the limitations in detection limits.

If these PCB limits are allowed, then DTSC should require, at minimum, more frequent analyses using more definitive test methods than immunoassay-based test kits. DTSC also must clarify when and where test kit analyses will be deemed sufficient.

Response 4-18

ISOCI is not permitted to accept wastes that contain polychlorinated biphenlys (PCBs) at or greater than 50 parts per million (ppm). Wastes that contain PCB between 5 to 49 ppm may only be managed at the Fuel Blending Unit. Other hazardous waste management units may manage wastes with a PCB concentration of less than 5 ppm. The recycled oil produced from the Oil Treatment System must have a PCB concentration of less than 2 ppm. A Special Condition (2r) has been added to the final permit to clarify the PCB concentration limits for the various hazardous waste management units at ISOCI.

ISOCI is not authorized to accept dioxin containing wastes and is not required to test for this compound. The Health Risk Assessment (HRA) that was prepared as part of the draft Environmental Impact Report (dEIR) has evaluated the risk associated with the facility's proposed operation by identifying and estimating the different chemicals that are likely going to be emitted into the environment from ISOCI's facility.

As stated in Response to Comment No. 4-16, EPA SW 846 Method 8080 will be replaced by Method 8082 to analyze for PCBs.

Comment No. 4-19

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

CBE is concerned about use of the wastewater treatment facility. It is unclear which of the proposed new chemicals could be introduced into the treatment facility, which likely cannot treat all of the chemicals listed in the Part B permit application. For example, generators of PCB may blend PCB-impacted oils with used motor oils. If this blended oil was introduced into the treatment facility, it is possible the PCBs would not be treated and could be unknowingly discharged into the environment.

Response 4-19

The draft and final permit unit description of the Wastewater Treatment Unit lists the

wastes that will be introduced into the unit in the "Waste Types" section of the unit description. The draft and final permit describes these wastes as follows:

"Waste Waters from ISOCI treatment of oil containing liquid wastes, aqueous liquids from off-site and on-site washing and rinsing activities, and inorganic off-site Waste Waters Containing less than 1% metals."

The Waste Water Treatment System may only accept California Waste Codes 133, 134, 135, 214, 221, 223, 241, 252, 342, 343, and 561. No RCRA waste codes are authorized to be accepted at the Waste Water Treatment System. Any other waste entering this Unit would be a violation of ISOCI's Hazardous Waste Facility Permit.

Comment No. 4-20

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The WAP is an important facility document that typically is reviewed by DTSC inspectors on-site because compliance with the WAP ensures that a facility does not accept hazardous waste that it is not permitted to accept. Unpermitted hazardous wastes that are unknowingly accepted may be incompatible with facility processes or other hazardous wastes that may be commingled for treatment. Because certain facility processes will use heat, if unpermitted hazardous wastes are accepted at the facility, those processes would likely create dangerously toxic emissions. The Statewide Compliance Division reviews permit documents for many hazardous waste Facilities to ensure they are enforceable. CBE requests that DTSC arrange for the Statewide Compliance Division to review the WAP before the Part B permit application is approved.

Response 4-20

DTSC has reviewed the Waste Analysis Plan (WAP) and determined that it meets the requirements of California Code of Regulations, title 22, section 66264.13.

Comment No. 4-21

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

ISOCI seeks to accept five RCRA waste codes that contain cyanides resulting from metal-plating operations (FO07, P005, P009, FO10, and F011). These wastes are hazardous due to their reactivity characteristic, and Table III-1 of the WAP confirms that these waste codes exhibit the reactivity characteristic. The Part A permit states that the facility expects to receive approximately 50 tons of F007 waste annually and 25 tons each of F008, F009, F010 and F011 wastes annually. ISOCI proposes to manage these cyanide-containing waste codes on the facility's rail spur and in containers. F010 and F011 wastes also will be stored and treated in tanks, and used as feedstock for the fuel blending unit.

CBE is alarmed that cyanide-containing reactive wastes would be stored in relatively unprotected rail cars on the rail spur. If a 25,000 gallon rail car full of cyanide-containing waste ruptured, the consequences for the surrounding area could be devastating. Storage of reactive wastes in unprotected rail cars without adequate containment is a public health and safety problem, because the rail cars could be the object of terrorist or other criminal attacks.

Response 4-21

Please see response to comment 4-17. In addition, please note that the facility must be in compliance with California Code of Regulations, title 22, section 66264.14 at all times to ensure safety at the facility.

Comment No. 4-22

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

At the same time, the WAP states that "[reactive wastes will not be accepted at the ISOCI facility. The wastes to be processed at the facility are chemically and physically stable. Described waste analysis methods are adequate to identify reactive, incompatible, and untreatable waste." The described waste analysis for reactivity, however, does not specify how precautionary screening will be performed nor does it address how the facility will prevent the dangerous mixing of cyanide-containing wastes with acids. DTSC must clarify whether the facility will be receiving reactive wastes. If it is not, DTSC must specify the precautionary screening measures that will be implemented to ensure reactive wastes are not received at the facility.

Response 4-22

The facility lists the method of testing waste for reactivity in Table III-3 of the Part B application, USEPA SW-846 Volume 1, Chapter 7 (emission of hydrogen sulfide and hydrogen cyanide). Also, please see response to comment 4-17.

Comment No. 4-23

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

A hazardous waste facility is required to develop a schedule and procedure for assessing the condition of the tanks at the facility that meets certain criteria. *See 22* C.C.R. 66264.195. Other hazardous waste facilities are required to assess and recertify their treatment and storage tanks at least every five years. The tank assessments and certifications in the ISOCI Part B permit application for the existing hazardous waste tanks at the facility are more than five years old. Therefore, all tank assessments and certifications for the Facility must be updated before the Part B Permit can be approved.

The draft permit proposes recertification of the facility's hazardous waste tanks every five years. Some hazardous waste facilities recertify their treatment and storage tanks as often as every three years. Given the large amount and numerous types of hazardous waste that will be stored at the facility, it is especially important that tanks be maintained in good operating condition and without cracks, leaks, corrosion, or other deterioration. DTSC should require ISOCI to assess and recertify its tanks every three years.

Response to Comment

ISOCI has provided DTSC with certified tank assessments. These assessments are current and in compliance with California Code of Regulations, title 22, section 66264.15, subsection (b) and section 66264.195, subsection (e). Based on the requirements stated above, the permit includes a special condition (1a) requiring the facility to re-certify its tanks once every five years.

Comment No. 4-24

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The Part B permit application states that the proposed wastewater treatment system will treat wastewaters resulting from eleven state waste codes. Most of these waste codes govern used oil, oily water, and used anti-freeze that will be accepted and treated at the facility. These waste streams contain oils and organics. The process description for the wastewater treatment system generally states that wastewater will be treated to meet sewer discharge standards prior to discharge into the sewer system. It appears, however, that ISOCI meets the definition of a centralized waste treatment facility under Clean Water Act regulations, and thus should be subject to pretreatment standards for the oils treatment and recovery and organics treatment and recovery subcategories established by those regulations. *See 40 C.F.R. 437 20*, *et.seq.* The draft Part B permit includes no discussion or analysis concerning ISOCI's compliance with these regulatory requirements. The section of the Part B permit application discussing wastewater treatment must be revised to include analysis of the applicable treatment effluent standards that ISOCI must comply with.

Response 4-24

The regulatory authority for 40 CFR, 437.20, et. seq., is the City of Los Angeles Bureau of Sanitation. DTSC does not have the authority to enforce these regulations. Please note that, Part III, Section 2(a) of the ISOCI Hazardous Waste Facility Permit states, in part, "…[T]he issuance of this Permit by DTSC does not release the Permittee from any liability or duty imposed by federal or state statutes or regulations or local ordinances, except the obligation to obtain this Permit…"

Comment No. 4-25

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

DTSC's "Guidance for the Evaluation and Mitigation of Subsurface Vapor Intrusion to Indoor Air" recommends that the vapor intrusion pathway should be evaluated when volatile organic compounds are found at a site. The 1994 RCRA Facility Assessment identified more than 18,000 ppm of petroleum

hydrocarbons at a boring location (boring B-3) near where two facility buildings are located. Other volatile organic compounds also have been identified at the facility. As discussed above, further corrective action is required at the site, but an RFI has not yet been performed. DTSC's Vapor Intrusion guidance was released in December 2004 and was revised in February 2005. Because the RFI work plan is dated March 2002, it appears that the vapor intrusion pathway into indoor air may not be adequately evaluated according to current DTSC guidance. CBE requests that DTSC requires ISOCI to collect data and evaluate the vapor intrusion pathway according to current DTSC guidance for collecting and evaluating the vapor intrusion pathway.

Response 4-25

A RCRA Facility Investigation (RFI) will be performed at the ISOCI facility as required by the Corrective Action Consent Agreement, dated August 11, 2000. If DTSC determines that there is a potential for indoor air exposure, DTSC will require ISOCI to evaluate the indoor air risk using the Guidance for the Evaluation and Mitigation of Subsurface Vapor Intrusion to Indoor Air.

Comment No. 4-26

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

CBE understands that DTSC typically requires hazardous waste facilities to list in a hazardous waste facility permit all equipment that will be used to handle or manage hazardous waste. Section VIII of the Part B Permit application lists only bulldozers, scrapers, trucks, Forklifts, pumps, ramps, and lines. CBE believes additional types of equipment may be used to handle hazardous waste at the facility, such as sampling equipment and instruments, filters, various types or containers, valve, hoses, runnels, drum wrenches, drum lid openers, handcarts, and drum dollies. DTSC should require ISOCI to list all equipment, devices, and instruments that may be used to manage hazardous waste at the facility.

Response 4-26

California Code of Regulations, title 22, section 66270.14(b)(8) states that the following information is required in the Part B application: “a description of procedures, structures, or equipment used at the facility to:

(A) prevent hazards in unloading operations (for example, ramps, special forklifts);
(B) prevent runoff from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);
(C) prevent contamination of water supplies;
(D) mitigate effects of equipment failure and power outages; and
(E) prevent undue exposure of personnel to hazardous waste (for example, protective clothing); and
(F) prevent releases to the atmosphere.

DTSC has determined that the description of equipment to be used at the facility, contained in Section VIII (Management Practices) of the Part B Permit, fulfills this requirement.

Comment No. 4-27

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Hazardous waste facilities typically "stage" hazardous waste containers outside of permitted storage areas for brief periods of time when they are received in order to facilitate proper screening and sampling of those containers. CBE understands that DTSC typically places some restrictions on these staging activities so that they are conducted with minimal risk to human health and the environment. ISOCI's Part B permit application does not address staging activities in the waste acceptance procedures, the WAP, or the description of operations. Based on the industry practice, CBE finds no basis to believe that all hazardous wastes received at the facility will be placed into permitted storage immediately upon their arrival. DTSC should require the Part B permit application to include a discussion of likely staging activities at the facility and the measures that will he taken to minimize risk to human health and the environment.

Response 4-27

The Part B Hazardous Waste Permit application indicates (Figure III-2, "Waste Receiving Procedures") that all waste brought into the facility will be tested prior to acceptance for storage or treatment at the facility. It is DTSC's understanding, based on its review of the WAP, that ISOCI will conduct fingerprint testing of incoming waste loads while the waste remains on the transport vehicle used to convey the waste to ISOCI. Furthermore, ISOCI shall not place hazardous waste anywhere other than in a permitted unit. There will be no staging areas at ISOCI.

Comment No. 4-28

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The Part B permit application's discussion of the Operating Record is deficient because it merely reiterates items that the regulations require be placed into the operating record. It does not discuss how the Operating Record will be implemented, organized, or maintained. DTSC should ensure that a hazardous waste facility operator is able to locate a particular hazardous waste container or shipment at the facility at any time. DTSC has cited hazardous waste facilities for violations of these operating record requirements. The Part B Permit application's discussion of the Operating Record should describe how a waste shipment is tracked as it moves through the facility from receipt to final treatment, discharge, or shipment offsite.

ISOCI does not make clear whether the Operating Record will be maintained only in paper form or whether electronic data also will be collected and maintained. CBE urges DTSC to require ISOCI to use an electronic (i.e., bar code scanning) operating record system. Given the large number of waste codes and shipments that ISOCI proposes to accept at the facility, CBE is concerned that failure to generate and maintain electronic data through an established and proven electronic operating record system could result in unnecessary delay in obtaining critical information about a waste container or shipment when an accident or other unanticipated event occurs at the facility.

Response 4-28

California Code of Regulations, title 22, Section 66264.73 (Section 66264.73), specifies the Operating Record that must be maintained by ISOCI. DTSC has determined that the Operating Record described in the Part B application meets the requirements of Section 66264.73. In addition, DTSC evaluates ISOCI's operating records during inspections to ensure that ISOCI complies with the requirements of Section 66264.73 and the Part B Permit Application.

Section 66264.73 does not specify whether the Operating Record must be maintained in paper form or electronic data. As a result, either paper or electronic format is acceptable.

Comment No. 4-29

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The documents made available by DTSC misleadingly characterize ISOCI as a generally good actor that has no significant compliance issues. For example, the enforcement section of DTSC 's fact sheet for the draft permit mentions only as 1996 consent decree that resolved "violations pertain[ing] to administrative procedures ... and other paperwork matters" and the March 2005 consent decree for violations relating to rail storage and treated oil storage. The DEIR's enforcement history section mentions alleged violations that occurred between 1992 and 1994, but it omits any discussion of noncompliance after 1996. DTSC has effectively hidden the facility's compliance record from the public by not accurately summarizing or discussing the complete record in the draft permit or the DEIR.

Response 4-29

DTSC apologizes for any inadvertent omissions in the dEIR regarding ISOCI's compliance history. The dEIR has been revised and updated accordingly. DTSC has completed one inspection each calendar year for a total of nine inspections since 1996. A summary of violations for each inspection has been added to the final Environmental Impact Report (EIR). See pages 2-29 and 2-30 of the final EIR. Please note that all enforcement actions since 1996 have been resolved. As of the date of the last facility

inspection, in April 2005, DTSC has determined that the ISOCI facility is in compliance with State law and its implementing regulations.

Comment No. 4-30

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

In fact, ISOCI has compiled a lengthy record of noncompliance with hazardous waste laws and regulations, and the facility was cited for violations within the past year. A review of EPA's Enforcement and Compliance History Online (ECHO) database reveals that ISOCI has been cited for numerous violations of the requirements for hazardous waste facilities in each year beginning in 1999. In the past, the facility has been listed by EPA as a "high priority violator."

Response 4-30

Comment noted. Please see comment 4-29.

Comment No. 4-31

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The March 2005 and June 2005 consent decrees between DTSC and ISOCI resolved certain violations, but they do not address all the violations that occurred over the past three years. Neither the DEIR nor other documents in the record addresses how many of these violations were resolved, or explains what measures, if any, the facility is taking to ensure such violations will not recur. For example, ISOCI has been cited on numerous occasions for accepting loads of used oil containing halogens greater than 1000ppm without rebutting the presumption that such loads were mixed with halogenated hazardous waste. The record does not demonstrate that ISOCI's procedure for rebutting the presumption concerning such loads is adequate.

Response 4-31

Please see Comment 4-29 regarding enforcement history. Please see Response to Comment 13-26 regarding halogenated hazardous waste.

Comment No. 4-32

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Given the scope of the proposed facility expansion, it is critical that the public be assured the facility will comply with applicable regulatory requirements. CEQA requires that DTSC consider ISOCI's compliance record before presuming it will follow the law. The lengthy history of enforcement problems at the facility demonstrates that ISOCI cannot be assumed to comply with applicable hazardous waste laws and regulations. As a result, adequate mitigation measures must be put in place. These measures include: enhanced surveillance and monitoring of the facility, as well as confirmation that the facility will maintain a centralized operating records system than will allow constituent wastes to be accurately tracked as they move through the facility's operations. Because of the facility's history of compliance problems, DTSC enforcement staff must review the conditions of the draft permit to ensure that these and other appropriate mitigation measures are adequate and enforceable.

Response 4-32

Please see Comment 4-29. Consistent with its oversight of all permitted facilities, DTSC may conduct enhanced surveillance and monitoring at ISOCI when and if it determines that such action is necessary.

The dEIR has identified the appropriate mitigation measures that DTSC believes are necessary to ensure compliance with the statutes and regulations.

Comment No. 4-33

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Contamination exists at the facility as a result of past operations. A 1994 RCRA Facility Assessment (RFA) identified 58 solid waste management units and two areas of concern at the facility. The 1994 RFA identified the constituents of concern as BTEX compounds, VOCs (perehcloroethylene and trichloroethylene), SVOCs (PCBs, phenanthrene, and metals). Pursuant to a 2000 consent order with DTSC, ISOCI was required to continue the corrective action investigation and prepare and submit a RCRA Facility Investigation (RFI) work plan to further delineate and characterize the extent of contamination at the facility, as well as interim measures and corrective study work plans.

Response 4-33

Comment noted. The ISOCI facility is involved in and will be implementing the RFI and other requirements that are necessary to comply with the Corrective Action Consent Agreement.

Comment No. 4-34

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

A review of DTSC's files for the facility reveals almost no documentation concerning corrective action activities since the 1994 RFA, other than submission of a complete RFI work plan that was prepared by ISOCI's consultants in March 2002.[1] Twelve years have passed since the RFA was completed, but no RFI has been performed for the facility. DTSC should inform the public whether work on the RFI has begun. If work on the RFI has begun, DTSC must confirm that the investigation is being performed by the persons specified in the RFI work plan. ISOCI must be required to perform an RFI to the satisfaction of DTSC and fulfill its corrective action obligations.

Response 4-34

Due to its limited resources, DTSC has previously been unable to pursue Corrective Action at the ISOCI facility. DTSC will soon be overseeing the implementation of the RFI workplan to identify if remediation is necessary at the ISOCI facility.

Comment No. 4-35

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

A pubic drinking water well is located one-quarter mile from the facility in the City of Vernon. DTSC must explain whether this is an active production well and, if so, why contamination from the facility does not pose a threat to drinking water given that subsurface contamination has not been fully investigated or remediated. CBE requests that DTSC explain how it can consider approving a permit for the Facility when corrective action obligations remain unfulfilled.

Response 4-35

As part of the RFI, ISOCI will be required to identify the nature and extent of contamination. If it is determined that contamination has migrated from the facility and has impacted the groundwater, DTSC will require ISOCI to implement a Corrective Action Plan to address the contamination. Also please note that Corrective Action will be required at the facility regardless of the outcome of the permit decision.

Comment No. 4-36

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The Part B Permit application is confusing and disorganized, and many sections are outdated. It appears that consultants for ISOCI simply inserted pages where revisions were made, so there is little consistency within sections. The Part B permit application, once approved, becomes the facility Operations Plan. The facility Operations Plan must be reviewed and referred to by DTSC inspectors, DTSC permit writers, the CUPA, and other regulatory agencies for up to ten years, or more,

from the date it is approved. The Part B permit application must be revised so that it is consistent throughout and can be more readily understood by different audiences.

It is unclear from the Part B permit application which engineer prepared the application. The most recent signature on the application by a professional engineer is dated September 2000. Elements of the application, however, were completed more than five years after that date. Moreover, the engineer that prepared the most recent version of the application included numerous disclaimers stating that a particular drawing was prepared by others and that the engineer did not review or approve of the drawing. As a result, it does not appear that the engineer endorses the processes proposed by ISOCI. DTSC must enforce the requirement that Part B permit applications include a statement by an independent qualified professional engineer attesting that the tanks and containment system at the facility are adequately designed. *See* 22 C.C.R. 66264.191(f).

Response 4-36

The Part B Permit application was prepared by the ISOCI facility. The regulations require that only the tank assessments and the secondary containment be prepared by a certified engineer. Several engineers worked on portions of the facility's Part B Permit application. The most recent signature by an engineer contained in the application is dated 11-14-03 (Volume 2, Section IV, Exhibit IV-1: "Secondary Containment & Container Storage Area Calculations & Certifications"). California Code of Regulations, title 22, division 4.5, chapter 14, article 10 lists the requirements that facilities must meet in order to comply with these regulations. DTSC has determined the tanks and containment system are suitably designed to achieve the requirements of this article. DTSC has also determined that the tank assessments meet the requirements of this article. Exhibit IV-1 and Volume 6: "Tank Records" meet these regulatory requirements.

Comment No. 4-37

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Title 22 of the California Code of Regulations requires that a closure plan for a hazardous waste facility be designed to address closure under a worst-case scenario, i.e., the facility is abandoned by the owner and DTSC is forced to step in to implement the closure plan and remove waste from the site for treatment and disposal.

Pursuant to 22 C.C.R. 60264.142, closure cost estimates must equal the cost of final closure at the point in the facility's life when closure would be most expensive. This would include cost provisions for demolishing and removing hazardous waste tanks and other equipment from the property. Further, the cost estimate may not incorporate any salvage value for wastes on site at the time of closure, and it must assume all waste is required to be treated for destruction and/or disposal. The Part B permit application confusingly includes two closure cost estimates, both dated August 2004. It appears that the estimate of $1,748,240.00 is the proper number, rather than the estimate of $876,591.00. Even if this is correct, however, it still is less than half the amount of a 2003 closure cost estimate contained in the record. That figure —$4,238,139 — demonstrates that ISOCI's closure cost estimate is insufficient to cover the potential costs resulting from the addition of hundreds of additional waste codes to the facility's operations.

Response 4-37

The figure of $4,238,139.00 was a part of a preliminary Closure Cost Estimate that was later revised. It represented the total closure cost estimate amount of all existing and proposed treatment units. The figure of $1,748,240.00 represented the closure cost estimate of the existing units in place at the time of the permit approval. A unit cost analysis performed by DTSC demonstrated that the $4,238,139.00 figure was not representative of existing operations. In addition, further revisions to the Closure Cost Estimate (CCE) were made resulting in the final figures that are stated in the draft Hazardous Waste Facility permit.

Part V of the permit specifies the CCE for the existing and proposed hazardous waste managements units. The CCE for the existing units is $1,583,391 and the CCE for proposed units is $1,595,272. See 4-38, 4-39, 4-40, 4-42, 18-3, 18-4, and 18-9 of the Response to Comments for details on the CCEs.

Comment No. 4-38

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Regardless of which cost estimate is intended, ISOCI’s method of calculating certain costs likely will result in inadequate reserves for closure. In particular, unit prices for professional labor to implement the closure plan appear too low in light of prevailing fees for such work in Southern California. ISOCI should demonstrate that these unit costs are appropriate.

Confined space entry will likely be required during decontamination of the facility's multiple tanks. ISOCI's cost closure estimate does not appear to include costs for permitting and executing confined space entry. Unit costs per gallon for off-site disposal of untreated hazardous waste appear too low. ISOCI should support this unit cost valuation with a cost estimate from a third party operating waste recycler that includes the costs of sampling and profiling the stored wastes. Finally, the closure plan allocates no costs for addressing subsurface soil contamination, which may only be discovered when facility structures are dismantled. ISOCI should include costs to cover some level of subsurface contamination as a reasonable worst-case scenario.

Response 4-38

DTSC used CostPro 5.0 software to calculate the Closure Cost Estimate (CCE). The spreadsheet used to calculate the CCE is included as an exhibit (Exhibit A). The unit cost for labor supplied by the software falls into an acceptable range for labor costs in the Los Angeles area. These labor costs and the method used to calculate costs are considered appropriate by DTSC.

The regulations do not require that the CCE allocates costs for addressing subsurface soil contamination that may exist in the future. Please note that ISOCI will be undergoing Corrective Action to identify and, if necessary, remediate any existing contamination that poses a threat to human health and the environment.

Comment No. 4-39

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

ISOCI's closure plan incorrectly assumes waste remaining at the site at the time of closure will simply be transported offsite for recycling at two facilities in the Los Angeles area. Further, it is our understanding that one of the facilities listed in the closure plan to receive ISOCI waste at time of closure is not permitted to accept all of the waste codes that ISOCI may possibly have on site at time of closure.

Response 4-39

It is DTSC's understanding that ISOCI will transport offsite all hazardous waste ISOCI may take the waste to any authorized hazardous waste disposal facility or recycling facility of its choosing. If a facility is not authorized to accept a particular waste code, that facility may still accept wastes from ISOCI that it is authorized to accept. The remaining wastes must be sent to another facility that is authorized to accept these remaining wastes. Therefore, for closure, ISOCI may name more than one authorized waste facility for final disposal of its wastes. DTSC has found that ISOCI's closure plan is in compliance with California Code of Regulations, title 22 sections 66264.111 and 66264.112 which require the removal of any hazardous waste from the facility at the time of closure.

Comment No. 4-40

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The closure plan states that ISOCI will assume that only 3 percent of the volume of each storage tank will be comprised of sludge. Other similar hazardous waste facilities are required to assume that 10 percent of the volume of each tank will be comprised of sludge, which cannot he removed or managed in the same manner as liquids. CBE requests that DTSC explain why it would allow ISOCI to assume less sludge in its tanks than other facilities handling similar wastes in tanks.

Response 4-40

While the Closure Plan submitted with the Part B permit application states 3% solids, DTSC used 10% when calculating the CCE with CostPro 5.0. Again, please refer to Exhibit A for a detailed illustration of the CCE. Please note that the Closure Plan in the Part B Permit application (provided by the facility) and the assumptions used to prepare the Closure Cost Estimate in the Hazardous Waste Facility permit (provided by DTSC) are not required to match. The CCE is based on conservative assumptions to ensure that there is adequate funding when and if the facility decides to close. For example, the CCE assumes that all waste inventories are disposed of at offsite facilities instead of being treated at the facility.

Comment No. 4-41

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The closure plan does not provide for testing the facility for PCBs or semi-volatiles at the time of closure. The Part B permit only limits the concentration of PCBs allowed in the facility, as previously discussed. The record reflects that ISOCI has been cited on numerous occasions for accepting loads of used oil containing halogens greater than 1000 ppm without rebutting the presumption that such loads were mixed with halogenated hazardous waste. Other hazardous waste facilities managing used oil are required to test their wastes, rinsewaters, decontamination solutions, concrete, and soil for PCBs and other constituents at the time of closure. Given the large number of hazardous waste codes that ISOCI proposes to accept at the facility, the list of compounds that must be evaluated in facility structures at the time of closure should include all possible constituents contained in the hazardous wastes the facility might accept, including PCBs and semi-volatiles.

Response 4-41

The Closure Plan in the Part B permit application contains provisions for evaluating levels of PCBs and SVOCs during the closure process. Please refer to Section XI, Table XI-1 and Exhibit XI-1 for a list of constituents that will be evaluated.

Comment No. 4-42

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

ISOCI has chosen an insurance policy as its financial assurance mechanism for closure costs. The closure insurance is consolidated on the same insurance policy as ISOCI's financial assurance for liability/sudden accidental occurrences. *See* Acord - Certificate of Liability Insurance – 10/23/03. It is unclear from the closure insurance policy what amount is designated for coverage of the closure cost estimate. Because this insurance policy is more than two years old,

DTSC must clarify whether the policy is still valid or whether it has been superseded by a newer policy that is not contained in the Part B Permit application. Furthermore, both the "Certificate of Closure Insurance" and "Liability Certificate if Insurance" are dated August 2000, and the closure certificate states a closure cost estimate of only $387,092.00. DTSC must require ISOCI to update and correct documents concerning financial assurance for closure and liability.

Response 4-42

ISOCI has two separate insurance policies - one for closure and one for liability and both the policies are current.

Closure:

The closure insurance policy for ISOCI is issued every year and the closure cost estimate is also adjusted for inflation every year. The current closure insurance policy # ENC 3633555-07 is in the amount of $441,488.00 and is valid from 8/16/2006 to 8/16/2007. It is issued by Steadfast Insurance Company

Liability:

The liability insurance policy for ISOCI is also submitted every year. The current liability insurance policy # PLC 3633554-07 in the amount of $1,000,000/$2,000,000 is effective 8/16/2006 to 8/16/2007 and is issued by Steadfast Insurance Company. It was renewed on 8/16/2006 and the insurance company has submitted a new liability certificate of insurance, DTSC Form 1160, for the period 2006-07 to DTSC on October 11, 2006.

Please note that the facility's financial assurance obligations for closure will be updated prior to the Part B permit becoming effective. See Part V of the final permit.

Comment No. 4-43

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The enforcement history and general history of the facility and the project development must be fully considered and documented. DTSC should explain why it did not deny

ISOCI s application given that more than three deficiency notices should have been issued. The facility has a record of soil contamination, operating for years without secondary containment for hazardous materials, and many other violations. Now, the facility proposes to significantly expand contaminated oil treatment, import a vast new array of toxic materials, and store large amounts of hazardous materials temporarily in railcars, without full disclosure or existing conditions or potential future impacts.
Response 4-43

Please see Comment 4-29 regarding ISOCI's enforcement history. Although the comment regarding the Notices of Deficiency (NOD) is beyond the scope of this permit, DTSC provides the following comments. First, California Code of Regulations, title 22, section 66271.2, subsection (e) (Section 66271.2(e)) states, in part, "…[I]f an applicant does not respond to three or more notices of deficiency regarding the same or different deficiencies or responds with substantially incomplete or substantially unsatisfactory information on three or more occasions,…" (emphasis added). The language in Section 66271.2(e) is merely directive and not a mandatory requirement to a public agency, such as DTSC. Second, DTSC took into consideration many factors in determining the appropriate course of action in this matter. A major component was the need for used oil recycling facilities and the fact that there had been a diminishing number of these facilities in California during the time of this permitting process. DTSC had denied permits to five different used oil recycling facilities (Dico Oil, PRC Signal Hill, PRC Patterson, Gibson Oil-Bakersfield, and Leach Oil) that were unable or unwilling to meet the regulatory requirements for this type of facility. In addition, other facilities closed for a variety of reasons (Gibson Oil-Wilmington and Gibson Oil-Redwood City). Finally, given DTSC's limited resources and the critical need for used oil recycling in California, along with ISOCI's willingness to move forward with the permitting process and continued efforts to resolve the deficiencies, DTSC determined that it would be more efficient and protective of the environment to continue with the permit process rather than to deny the permit application and start over thereby delaying and lengthening the process.

Comment No. 4-44

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The project proponents propose that the public simply trust that new permits will eventually set standards for operation precluding any significant impacts. But details and conditions for such permit applications we requested from DTSC were not

available. DTSC has referred us to the individual agents for these permits and applications (such as the Water Board, the Air District, the City of LA. etc.). We contacted the South Coast Air Quality Management District (SCAQMD)" and were told that no air quality permit application had as yet been received by the AQMD (as of January 20, 2006). The DEIR implies throughout that such permits are in process. However, the facility's actual proposal for air emission controls and associated equipment has not been submitted, and is not available for public review.

Response 4-44

DTSC apologizes for any confusion regarding the issuance of permits for the ISOCI facility. At the time the dEIR was drafted, it was DTSC's understanding that certain permits for existing activities had been filed by ISOCI. However, permits for activities that comprise the proposed project and require a CEQA decision may not be issued until the EIR is finalized.

Comment No. 4-45

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The public is in the dark about many aspects of this project – especially when whole areas of environmental impacts have gone evaluated – anti related documents and evaluations appear to be vastly out of date. At a minimum, the DEIR should provide the public with a full description of the facility's enforcement history and clear criteria for ensuring that future operations will improve. The DEIR does not provide such assurances. Ongoing attention to environmental regulation enforcement should be identified as a special category in the DEIR in order to mitigate potential impacts of the project.

Response 4-45

Please see Comment 4-29 regarding ISOCI's enforcement history. Although CEQA does not require the inclusion of the enforcement history in an EIR (please see CEQA Guidelines ' ' 15120-15132), DTSC provided it in an effort to ensure that the public is fully informed. As previously mentioned, DTSC will amend the dEIR to update ISOCI's enforcement history.

Comment No. 4-46

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The DEIR assume that all regulations and future permit conditions will be complied with in the future. However, since they were not in the past, there are many potential additional impacts to air, water, biological resources, sensitive populations, and all other categories identified in the DEIR which could occur.
Response 4-46

The comment that the "DEIR assumes that all regulations and future permit conditions will be complied with in the future" is incorrect. The hazard analysis assumes chemicals would release under worst-case conditions. Since certain of these chemicals could generate negative health effects to adjacent workers, residents and sensitive populations, mitigation measures were developed to limit their concentration in waste handled at ISOCI. Air quality impacts were evaluated assuming no controls and most of the equipment at the ISOCI facility does not or will not require air permits so there is no assumption that the facility will comply with future permit conditions. Finally, there are no significant biological resources located at or adjacent to the site. The impacts associated with sensitive populations were evaluated in the hazard analysis 3-67 to3-75), as well as air quality impacts (see Draft EIR, page 3-45).

Comment No. 4-47

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Many enforcement problems have continued at the facility year after year. (*See* DEIR, 2-28 – 2-30). Violations including but not limited to spills, lack of containment, and PCB contamination are documented in the consent decree. (*See* Corrective Action Consent Agreement, SWMU 20-49)
Response 4-47

Comment noted. Please see Response to Comment 4-29.

Comment No. 4-48

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

DTSC asserts that the Project is uncontroversial because no objections were voiced during the public review process. *See* DEIR ES-6. As discussed above, however, DTSC mishandled the public participation process for the draft permit and did not translate key documents, including the DEIR, into Spanish. The public review process was further flawed because proceedings under the Tanner Act improperly are not scheduled to begin until the CEQA process is complete.

Response 4-48

Please see Response 1-3 regarding DTSC's public participation and outreach program. Please see Responses 4-91, and 4-92 regarding the Tanner process**.**

Comment No. 4-49

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The DEIR contains numerous deficiencies that are highlighted in the following comments. One particular area of concern, common to virtually all the topics in the DEIR, is the absence of any attention on the projects likely disproportionate impacts on nearby environmental justice communities. The proposed project site is located near largely low income Latino communities, but the DEIR ignores the heightened exposure to adverse environmental impacts that these communities will face due to this project when considered in light of the numerous other existing facilities in the project vicinity

Response 4-49

The proposed project's potential impacts on all receptors, including those belonging to minority and low income communities were addressed in the analysis of potential adverse impacts in the dEIR. Accordingly, since the proposed project will not cause a significant adverse impact on most resources, no significant disproportionate impact on disadvantaged communities or communities of color will occur. Air quality (NOx emissions) is the only resource with the potential for significant impacts to remain after mitigation (See Section 3.3 of the dEIR). As discussed in the No Project Alternative section of the dEIR, NOx emissions without the proposed project are expected to be higher because trucks would be required to travel greater distances to recycling

facilities, generating more emissions throughout the state. The proposed project is not expected to have significant localized air quality impacts as truck emissions are spread throughout southern California. No negative environmental justice impacts are expected since no localized air quality impacts are expected. Please note that currently there are no requirements to analyze environmental justice as a separate issue in the CEQA process. The Draft EIR evaluated impacts to all local workers, residents, and sensitive receptors, regardless of color, national origin or income.

Comment No. 4-50

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Endemic to the DEIR is a vague and inaccurate definition of baseline conditions. Without an accurate assessment of the project site and conditions in the vicinity of the proposed project, it is impossible to evaluate the scope or magnitude of the potential impacts of the proposed project. The DEIR identifies significant impacts related to air quality, wastewater, and water demand. As a result of the analytic approaches used throughout the DEIR, however, the document overlooks additional air quality, wastewater, transportation and other potentially significant environmental impacts. The DEIR utilizes inconsistent methodologies to assess cumulative impacts without clear specifying significance standards or considering the ISOCI project's cumulatively considerable contributions to adverse cumulative impacts. Moreover, the project alternatives fail to satisfy CEQA's requirements that EAR alternatives avoid or lessen any significant environmental effects. In short, the DEIR's failure to accurately define baseline conditions, identify all significant environmental impacts, evaluate cumulative impacts, and present a reasonable range of alternatives mandate that DTSC recirculate the DEIR to satisfy CEQA requirements.
Response 4-50

DTSC disagrees with the comment that the dEIR is vague and contains an inaccurate definition of baseline conditions. Responses to comments regarding the baseline used in the Draft EIR are addressed in Responses 4-51 through 4-55. The comment that the "DEIR identifies significant impacts related to air quality, wastewater, and water demand" is incorrect. The DEIR identified potentially significant air quality impacts related to NOx emissions only.

The remainder of the comment is a summary of specific comments that are made in subsequent portions of the letter.

Comment No. 4-51

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Deficient Definition of Baseline Conditions

The DEIR correctly states that baseline environmental conditions must be based on "the physical environmental conditions in the vicinity of the proposed project as they exist at the time the NOP [Notice of Preparation] is published, or if no NOP is published, at the time the environmental analysis is commenced," according to CEQA Guidelines § 15125(a). *See* DEIR, 3-2. The NOP for this project was published on October 12, 1995, and is included as Appendix A. Thus, any changes to the project site or its surrounding conditions that have occurred since 1995 cannot properly be included as within baseline conditions, both with respect to the definition of the project itself or cumulative conditions.
Response 4-51

See Response to Comment 2-4. The baseline is described on page 3-2 of the dEIR. The baseline used for each environmental resource is described in Chapter 3 of the dEIR under the heading of “Environmental Setting.”

Comment No. 4-52

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The DEIR's project description fails to clearly delineate which project components would be actually new, which seek authorizations under a Part B permit for components already implemented, and which have been otherwise implemented since 1995. The project description focuses solely on elements that are proposed as new additions to the existing ISOCI facility. Existing component that apparently have been implemented in a piecemeal fashion cannot legally be included as part of baseline conditions. However, the DEIR never clearly distinguishes between the components are existing and those that are proposed. In fact, the sentence in the DEIR that immediately follows the CEQA definition of baseline conditions misstates conditions as “the existing environment around ISOCI before issuance at the Part B permit." (*See* DEIR 3-2) This confusion continues throughout the DEIR, and it is impossible to decipher what specific changes have occurred on the project site or its surroundings since the NOP was

published a decade ago. DTSC, as the lead agency, properly bears the burden to accurately describe all changes that have occurred on the project site and in its surroundings since publication of the NOP so that clearly defined baseline conditions and project impacts are presented and analyzed in the DEIR. This has not been done.

Response 4-52

The comment that the project description fails to clearly delineate which project components are new and which are existing is incorrect. As referenced on page 3-2 of the dEIR, Table 2-1 identifies the equipment at the ISOCI facility that is existing and part of the baseline under "Existing Facility Operations." The existing facility operations are further described in subchapter 2.5.1 Existing Facility Operations (pages 2-10 through 2-12). The changes to the facility that would be allowed under the Part B permit are described under 2.5.2 Proposed Facility Operations (pages 2-14 through 2-18) and Table 2-1 under "Proposed Facility Operations."

For clarification purposes, the following sentence on page 3-2 (second complete paragraph) will be deleted from the Final EIR: "This subchapter describes the existing environment around ISOCI before issuance of the Part B permit." This sentence is not specific to the baseline and does not provide additional pertinent information.

Comment No. 4-53

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

A comparison of the descriptions of current operations in the NOP relative to the DEIR provides some indication of the magnitude of changes undertaken over the past decade. The DEIR (pages 2-8 through 2-12. including fable 2-1) indicates an existing tank capacity of 795,653 gallons, railcar storage for I25,000 or 250,000 gallons (text and table are inconsistent), container storage for 100,000 gallons in 1,818 55-gallon containers, an oil treatment unit for 64,000 gallons/day, and several secondary containment units. Based on the NOP, only the oil treatment unit was comparably sized in 1995 (p.3), with other facilities described as follows: waste/used oil & waste water tanks for 502,000 gallons; product oil storage tanks for 490,000 gallons; containers for 11,000 gallons in 200 containers, railcar storage for 165,000 gallons, and no secondary containment units are described. These descriptions of on-site facilities are not consistent and indicate that substantial changes have occurred since publication of the

NOP which cannot legally be treated as part of baseline conditions in the DEIR until DTSC prepares a new NOP.

Response 4-53

The changes that have occurred at the facility since the preparation of the Notice of Preparation (NOP) are generally related to compliance with changes to the statute and its implementing regulations (see Response to Comment 4-52). The existing ISOCI facility has a permitted tank capacity of 795,653 gallons and the railcar storage of 125,000 gallons. While the facility is physically and structurally able to store 250,000 gallons in railcars, it is permitted to store a maximum of 125,000 gallons.

Substantial physical changes to the ISOCI facility have not occurred since the NOP was published. Rather, the description of the existing facility has been more accurately described in the dEIR. It should be noted that the NOP described the existing tank capacity as 980,000 gallons (502,000 + 490,000) and the proposed capacity as 907,000 gallons. (557,000 + 350,000). The dEIR describes the existing tank capacity as 795,653 gallons and the proposed tank capacity of 1,067,760 gallons, which is based on more accurate data for the existing tanks and revisions to the tanks under the proposed project. It also provides a more conservative estimate of the project impacts because the baseline (795,653 gallons) is smaller than the proposed project (about 1 million gallons).

The changes in the project description between the NOP and dEIR generally involve elimination of portions of the project. For example, the ultrafiltration unit, thin film unit, and fractionation unit have been eliminated from the proposed project. Further, the proposed maximum capacity of the rail cars has been reduced from 330,000 gallons to 250,000 gallons. These types of changes would generally lead to fewer impacts. Although secondary containment was not described in the NOP, it has been installed to comply with spill containment requirements.

Comment No. 4-54

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The DEIR also describes actions and other permits related to enforcement and an associated 1996 Consent Agreement that allowed various changes without providing sufficient detail to determine which project components have already been undertaken.

The recirculated DEIR needs to clearly identify all permits, facilities, and changes that have occurred on the project site since issuance of the 1995 NOP and include all of these as project components.

Response 4-54

Please see Response to Comment 4-29 and 4-44 regarding enforcement and the issuance of permits, respectively.

As stated in Response 4-52, Table 2-1 and subchapters 2.5.1 and 2.52 identify the equipment and activities at the ISOCI facility that are part of the baseline and part of the proposed project.

Comment No. 4-55

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The effects of any changes that have occurred since 1995 cannot properly be considered as part of baseline conditions. As set forth in CEQA Guidelines 15125(a), baseline conditions for the project site as well as its surroundings must be defined by conditions as they existed at time that the ISOCI NOP was issued in 1995. For each and every environmental topic analyzed, DTSC must analyze environmental effects based on baseline conditions as defined by the NOP. Because the DEIR neither uses a proper baseline nor identifies all changes to time project site and its surroundings that have occurred since 1995, the analyses for each and every environmental topic are deficient. DTSC must remedy these severe shortcomings by either incorporating accurate evaluations of baseline conditions into all aspects of a recirculated DEIR or by reinitiating the NOP process with subsequent preparation of a DEIR consistent with public input — including a public scoping meeting - and comments on a new NOP.

Without an accurate description of baseline conditions, an accurate evaluation of project impacts is impossible. Because a decade has elapsed since publication of the NOP and because the NOP establishes baseline conditions, the DEIR cannot treat changes which have occurred over the past decade as part of baseline conditions unless an updated NOP is prepared.
Response 4-55

See Responses 4-51, 4-52, 4-53 and 4-54.

Comment No. 4-56

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:
Air Quality

In analyzing air quality, the DEIR focuses on the project's generation of criteria pollutants compared to regional thresholds. (See DEIR, 3-27 - 3-38) This approach is supplemented by a risk assessment for air toxics that was performed by treating the project in isolation from its industrial setting and the compounded effects of the project in combination with its surroundings. *See* DEIR, 3-38 - 3-45. The project site is primarily surrounded by heavy industry and is flanked by four major freeways, plus a number of high volume traffic arterials and railroad tracks. *See* DEIR. 3-88 - 3-91 & 3-115. The air toxics risk assessment is further undermined by its failure to consider a planned population increase over 13,000 people in the project vicinity, that is identified on Table 5-5 (page 5-19) but is never linked to a localized air quality or risk assessment in either the project-specific or cumulative air quality analyses.

Response 4-56

A Health Risk Assessment (HRA) was prepared for the operation of the ISOCI facility that included emissions from all equipment at the ISOCI facility, including the equipment considered as part of the baseline. The HRA concluded that toxic air contaminant (TAC) emissions are expected to result in less than significant carcinogenic impacts to the Reasonable Maximum Exposed Resident (RMER), Reasonable Maximum Exposed Worker (RMEW), and the local sensitive populations. The TAC emissions are expected to result in less than significant for acute and chronic non-carcinogenic health impacts (*see* Draft EIR, pages 3-38 through 3-45 and the HRA).

As discussed in the EIR (page 3-45), the maximum incremental increase in cancer risk to a sensitive population was estimated to be 1.04 x 10-6 (1.0 per million) for adults and 0.47 x 10-6 (0.5 per million) for children at the Lou Costello Recreation Center. All of the cancer risk is attributed to exposure through the inhalation pathway. The cancer risk at all other sensitive populations is estimated to be less than 1.04 per million. The cancer risk to the sensitive populations (highest impact of 1.04 per million) is less than the significance threshold of 10 per million. Therefore, no significant impacts to sensitive populations are expected.

The estimated cancer risk assuming a residential exposure at the Sears Tower is 0.395 x 10-6, which is less than the maximum exposed sensitive receptor and also less than significant.

The emissions for the cumulative projects identified in Table 5-5 (page 5-19) of the Draft EIR are estimated in Table 5-3 (page 5-7) of the Draft EIR. The existing or background cancer risk for the area is based on the SCAQMD MATESII study which is summarized on page 5-7, as follows: "The cancer risk at the Los Angeles site, based on monitoring data, was about 400 per million from stationary and mobile sources (other than diesel particulate emissions). The cancer risk from mobile sources (alone) was about 250 per million. The cancer risk associated with diesel articulate emissions was about 1,000 per million. The MATES II study concluded that the total carcinogenic risk in the Basin currently exceeds thresholds of significance, even without the proposed project or related cumulative projects." The Draft EIR further states: "Since the project-specific toxic air contaminant impacts would not be significant for carcinogenic, acute or chronic health impacts, they are not considered to be cumulatively considerable. Existing emissions are being addressed through the Air Quality Management Plan, which provides measures to reduce emissions and help the Basin attain federal and state ambient air quality standards and the Air Toxics Control Plan. Some of these measures are aimed at reducing emissions of diesel-fueled engines, which will also reduce emissions of TACs.

Comment No. 4-57

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Off-site emissions of NOx and PM-10 are expected to increase significantly as a result of increased truck traffic and fugitive dust from the facility and truck traffic. In particular, off-site NOx emissions will increase from 114.61 pounds per day to 181.36 pounds per day, and PM-10 emissions will increase from 51.92 pounds per day to 107.82 pounds per day. *See* DEIR, 3-37. The DEIR acknowledges that the operational phase of the Project is expected to exceed South Coast Air Quality Management District significance thresholds for both NOx and VOC emissions due to increased truck traffic and that NOx emissions will remain significant despite new rules limiting emissions from diesel trucks. *See id*. 3-49. The DEIR does not discuss the implications of adding to the burden of air pollution in LA, one of the two worst cities for air quality in the country.
Response 4-57

As noted in the comment, the air quality impacts of the proposed project are addressed in the EIR (see pages 3-27 through 3-49 and the HRA). The cumulative air quality impacts of the proposed project and surrounding projects are addressed in Chapter 5, pages 5-5 through 5-10.

The No Project Alternative is expected to generate more air quality impacts than the proposed project (see Chapter 4, pages 4-4 through 4-6). In other words, if the ISOCI facility were to close, the emissions from the transport of used oil to other recycling facilities is expected to be greater than the proposed project and result in an increase in emissions of 182 lbs/day of CO, 26 lbs/day of VOC, 253 lbs/day of NOx, 2 pounds per day of SOx, and 201 pounds per day of PM10.

Comment No. 4-58

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

All aspects of the air quality are deficient because baseline conditions are improperly defined. *See* DEIR, 3-21 - 3-23. The project and its associated air quality impacts should include all changes to facilities on the project site and its surroundings over the period since the NOP was issued in 1995. Based on an improper description of baseline conditions, all aspects of the air quality analysis are defective. The analysis and discussion are further impaired by disproportionate attribution of effects to mobile sources based on the draft MATES II study rather than to stationary sources as corrected in the final MATES II report. *See* DEIR, 3-18.
Response 4-58

As stated in Response 4-52, Table 2-1 and subchapters 2.5.1 and 2.52 identify the equipment and activities at the ISOCI facility that are part of the baseline and part of the proposed project. The environmental analysis in the dEIR has been completed consistent with CEQA Guidelines and, therefore, the air quality analysis is not defective.

The dEIR included a summary of the final MATES II Study to provide estimates of the existing cancer risk in southern California. The final MATES II Study reported that “The contribution to risk is dominated by mobile sources (e.g., cars, trucks, trains, ships, aircraft, etc.). About 70% of all risk is attributed to diesel particulate emissions; about 20% to other toxics associated with mobile sources (including benzene, butadiene, and formaldehyde); about 10 percent of all risk is attributed to stationary sources (which include industries and other certain businesses such as dry cleaners and print shops.)”

See Final MATES II report, SCAQMD March 2000, page 7-1, number 3 under 7.1 Monitoring Program. Therefore, the reference to the MATES II Study in the EIR is correct and no changes are required.

Comment No. 4-59

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The analysis of criteria pollutants in relation to regional standards does identify significant impacts for VOC and NOx. *See* DEIR, 3-33, Table 3.3-8. The analysis of criteria pollutants identifies significant air quality impacts for VOC and NOx because the project would generate emissions greater than what the regional standards for these pollutants allow. The DEIR claims that the significant VOC impacts would be mitigated but concedes that the significant NOx impacts would not be mitigated. The DEIR does not provide sufficient detail to ensure effective mitigation of project-specific VOC impacts. The DEIR relies on VOC mitigation based on compliance with SCAQMD Rule 1178 for one storage tank unspecified controls on the oil water separator, and a regular inspection program. *See* DEIR, 3-48.

Response 4-59

DTSC believes that the dEIR provides sufficient detail to ensure effective mitigation of project-specific VOCs (See page 3-48 of the dEIR). The mitigation for storage tank 600 is required because this is the only storage tank that will handle high vapor pressure material and would generate the most VOC emissions of all the storage tanks. SCAQMD Rule 1168 would require that a dome be placed on the tank for additional vapor control. Mitigation for the oil/water separator is carbon adsorption or the equivalent as stated on page 3-48 of the dEIR.

Comment No. 4-60

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The DEIR identities NOx emissions caused by the project as significant but dismisses them as occurring off-site related to truck and rail activities. The DEIR does not identify feasible mitigation measures.

Response 4-60

DTSC disagrees with the comment and notes that the dEIR discusses the issue of mitigation at length. As stated on page 3-47 of the dEIR, "ISOCI does not own a dedicated fleet of trucks so that mitigation measures that would require use of lower sulfur diesel fuels and NOx catalysts are not feasible to implement on trucks that visit the ISOCI facility because: (1) ISOCI does not have control (own) over the trucks that visit their facility; and (2) requiring these mitigation measures on trucks would be expected to result in the trucks traveling to another oil recycling facility, rather than installing additional control equipment."

The dEIR further explains that "No other feasible mitigation measures have been identified for railcar emissions because they would continue to be generated in the area with or without the project, due to the location of the ISOCI facility with respect to the local rail yards." The dEIR explains that the U.S. EPA, not DTSC, has the authority to regulate emissions from locomotive engines.

The dEIR concludes that NOx emissions from truck and rail activities are significant and considers the potential impacts. The dEIR goes on to explain why there are no feasible mitigation measures available as defined by CEQA. "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors (CEQA Guidelines Section 15364).

Comment No. 4-61

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

A meaningful analysis of project air quality impacts also requires inclusion of the combined effects of other nearby emission sources and should include analysis of the effects of localized concentrations in this industrial setting that is ringed by congested freeways. The cumulative air quality analysis shows tenfold exceedances of regional thresholds for criteria pollutants, staggering emission levels for particulates even with new truck emission standards assumed to be realized, and very high cancer risks. *See* DEIR 5-7. The concentrated localized effects of the ISOCI project in combination with numerous nearby substantial emission sources is not addressed. Moreover, nowhere in the cumulative analysis is any investigation made concerning the

likely greater concentration of significant air quality impacts in this heavy industrial, heavily-trafficked area.

Response 4-61

The cumulative air quality impacts are included in Chapter 5 (see pages 5-5 through 5-10). The cumulative air quality impacts during construction activities are summarized in Table 5-2 and the cumulative air quality impacts during operation are summarized in Table 5-3. Significant cumulative impacts were identified for both the project construction and operational phases and feasible mitigation measures have been developed to reduce emissions. The concentrated localized effects of the ISOCI project in combination with nearby emission sources were analyzed in the dEIR. The proposed projects in the area that are expected to generate the largest air emissions include a produce market on Washington Boulevard (2,984.60 lbs/day of CO, 267.84 lbs/day of VOC, 282.88 lbs/day of NOx, 2.34 lbs/day of SOx, and 209.32 lbs/day of PM10) and proposed development at 2650 Olympic Boulevard (3,007.25 lbs/day of CO, 296.87 lbs/day of VOC, 288.02 lbs/day of NOx, 2.48 lbs/day of SOx, and 223.28 lbs/day of PM10). The dEIR recognizes that the cumulative air quality impacts are significant. Therefore, the cumulative air quality impacts have been adequately evaluated to the extent that information regarding other projects in the area is available.

Comment No. 4-62

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The DEIR lists various hazardous materials without identifying what amounts of each would be handled on-site or be generated as waste products. The DEIR does not provide a thorough analysis that links specific amounts of hazardous materials to emissions of air toxics. Without this information, it is impossible to assess the accuracy of the emission figures in the DEIR or to understand the potential for the project to generate dangerous wastes, such as dioxin compounds.

Response 4-62

The detailed analysis of the toxic air contaminants that may be emitted from the ISOCI facility are addressed in the HRA, including emissions calculations. Dioxins are not a waste stream that that will be handled by ISOCI or a compound that may be generated by the ISOCI facility. Dioxins are a by-product of combustion activities, usually the

burning of waste streams. However, the only fuel that is used in stationary equipment at the ISOCI facility is natural gas and natural gas is not a source of dioxins.

Comment No. 4-63

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

There may be an error in either the listing of assumptions provided on page l of Appendix A (RCRA Part B Application – Volume 4) or in the follow-on calculations performed by ISOCI consultant relating to air emissions. This potential error likely influences the air-quality analysis described in the DEIR. Specifically, the vapor pressure for glycol/glycol waste listed in the assumptions is 5 millimeters of mercury (mm Hg), however the emission estimates were performed using 1 mm Hg vapor pressure for that product/waste. Similarly, the vapor pressure for oily wastewater is incorrect in either the listing of assumptions or in the calculated emissions. In that case, the listed vapor pressure is 1 mm Hg in the assumptions with calculations based on 5 mm Hg. If the vapor pressures listed in the assumptions are in fact correct, the simulations (Tanks 4.0 model) likely underestimate the glycol emissions by a factor of 5. Estimated total VOC emissions, using the listed vapor pressures in the assumptions, are approximately 15,000 pounds per year, nearly double the estimate provided in the application. The error in either the assumptions or calculations (included in the RCRA Part B Application) calls into question the care with which the application and supporting calculations were prepared and how those data were evaluated in the DEIR. In addition, the emissions calculations were based on a single vapor pressure for each of the waste streams, regardless of operating temperature. The vapor pressure of a fluid increases dramatically with temperature and does not appear to have been considered by ISOCI's consultant. The DTSC should ensure that the assumptions used, and their specific application at the facility are appropriate and represent likely future conditions.
Response 4-63

The dEIR did not rely on any emission calculations prepared as part of the Part B permit application. As discussed in the dEIR and HRA, emission estimates for storage tanks were based on the fugitive emission calculations for fixed roof storage tanks developed by U.S. EPA's Compilation of Air Pollutant Emission Factors (AP-42) and included in the TANKS model (HRA page 14 and Draft EIR Appendix D). The vapor pressure and speciation of toxic air contaminants were based on data collected from the sampling of the headspace in the storage tanks. The vapor pressure of the glycol/glycol waste (antifreeze) was assumed to be the same as the waste oil tanks (0.0087 psia,

which was determined based on sampling). The glycol/glycol wastes tend to have traces of oily waste, which has a higher vapor pressure than glycol. Therefore, the entire material was assumed to have the same vapor pressure as used oil.

Regarding the Part B air emission calculations, its is correct that ISOCI listed 5 mm Hg vapor pressure for the glycol/glycol waste in the assumptions but used 1 mm Hg vapor pressure in the calculations to estimate the emissions which likely underestimate the glycol emissions by a factor of 5. It is also correct that the emissions calculations for oily wastewater listed 1 mm Hg vapor pressure in the assumptions but used 5mm Hg vapor pressure in the calculations. Please note that the glycol/glycol waste and oily wastewater units are not authorized to accept RCRA wastes (see pages 26 and 39 of the permit), and therefore, the requirements of Article 27 and Article 28, Chapter 14, Division 4.5, Title 22, California Code of Regulations do not apply. Only Article 28.5, Air Emission Standards for Tanks, Surface Impoundments, and Containers, of this chapter applies. DTSC has added a Special Condition (2x) in the Permit which requires ISOCI to comply with Article 28.5.

Comment No. 4-64

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The DEIR concludes that damage from seismic shaking will be minimized by complying with the Uniform Building Code. However, the DEIR also acknowledges that severe damage short of total collapse could occur, but does not analyze the potential impacts of this damage, nor does it consider potential mitigation measures for these impacts. Such damage could involve tanks and their floating roofs, secondary containment structures, railcars, other containers of hazardous materials, boilers, heaters, generators, and other onsite and offsite facilities. Damage to these units and facilities could result in leaks, spills, fires, smoke and smoke plumes, and hazardous air pollution. CEQA requires an analysis of all potentially significant environmental impacts, and requires the agency to develop mitigation measures wherever possible minimize those impacts once they are discussed. It is not sufficient to rely solely on the Uniform Codes without analyzing the remaining potentially significant impacts.

Response 4-64

The dEIR, specifically Section 3.4: Geology and Soils and Subsection 3.4.1.2: Seismicity, discusses these issues. The dEIR recognizes the potential for impacts due

to seismic shaking. Compliance with the Uniform Building Code is expected to minimize the potential for impacts in the event of an earthquake as well as minimize the possibility of collapse of structures which is expected to prevent injury to individuals. All tanks have been certified as structurally sound and adequate for their intended uses by a registered engineer; therefore, the seismic impacts on the facility are expected to be less than significant. Damage to tanks and equipment could cause leaks, however, leaks are expected to be contained within secondary containment areas. Any unexpected releases from tanks or containers would not be released to the environment because the units have secondary containment.

The hazards related to earthquake-induced releases are evaluated in the dEIR Section 3.5 Hazards and Hazardous Waste and Subsection 3.5.4: Environmental Impacts as well as Appendix F. The hazards evaluated include releases that generate toxic air emissions, fire, and explosions. The analysis concluded that the hazards associated with releases would be mitigated to less than significant. Mitigation measures were required to limit the concentration of certain toxic air contaminants in order to minimize the potential for offsite exposure.

Comment No. 4-65

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

In assessing potential on-site disasters, the DEIR considers three on-site accident scenarios, all of which involve spills: 1) rupture of a 55-gallon drum; 2) full gasket failure of a 4-inch pump discharge line: and 3) failure of a full storage tank containing mixed solvents. *See* DEIR 3-67 -- 3-71. The total volume or liquid spilled in these accident scenarios ranges from 55 gallons to 70,000 gallons. DTSC concluded, based on analyses of these spill scenarios and off-site truck accidents and rail accidents, that the hazard impacts are less than significant after mitigation. *See* DEIR 3-77. However, each of the three scenarios dismisses likely risks and relies on unspecified regulatory oversight. Moreover, the DEIR utilizes broad averages to calculate the risks of transport accidents thereby minimizing potential spills and accident estimates related to transport of hazardous materials both to and from the project site are minimized, *See* DEIR, 3-72 & 3-73. The Hazard Analysis relies on probabilities associated with failures from various industry and governmental sources but fails to adequately describe the conditions for which those probabilities were developed and should be objectively applied. These probabilities should be clarified and DTSC should confirm they are appropriate for the facility's proposed operations. For example, the probability used to describe 55 gallon

drum ruptures appears too low. Operating facilities where large quantities of drums are handled daily, ruptures due to forklift piercing, vehicle collisions, drops from pallets while being lifted with a forklift, drum-cart piercing, caustic contents and drum deterioration, and overheating and seam failure occur frequently. Furthermore, It appears that many of the chemicals that were evaluated are gases (such as phosgene, chlorine. bromine, fluorine, and cyanogen), but it is doubtful that any of these gases would be contained in 55 gallon drums.

Response 4-65

DTSC disagrees with the comment that "each of the three scenarios dismisses likely risks and relies on unspecified regulatory oversight" in the discussion of hazards in the dEIR. The hazard analysis assumes that all regulatory safeguards do not work and that tanks fail and lose their entire contents, drums spill, etc. The risks associated with transport accidents were based on accident rates developed by the County of Los Angeles that include transportation risks on interstate highways and freeways, 2- lane expressways, divided expressways, urban road, 2-lane conventional roads, and multi-lane conventional roads. The transportation risks were based on accident rates on freeways and city streets as they are the most representative of roadways used by trucks that transport materials to and from the ISOCI facility. No additional data have been provided by the commentator to suggest another methodology or factors that should be used.

The hazard analysis provides probabilities associated with failures from industries that use storage tanks. This information is provided for background information and to communicate which releases are likely to occur. The probabilities of failures are not used to determine the significance of impacts. The hazard analysis recognizes that drums can be punctured and predicts that this is the most common type of failure (see Hazard Analysis, Appendix F, page 3). However, the hazard analysis does not take into account the frequency of a potential release, only the impact (see Appendix F). No additional data have been provided by the commentator to suggest probabilities that would be appropriate. Based on the information available to DTSC, it appears that no major releases of hazardous materials have occurred at the ISOCI facility.
The hazard analysis evaluated all chemicals that could be handled by ISOCI as listed in the Part B permit. As noted in this comment, some of the chemicals that could be handled by ISOCI tend to be gases at standard temperature and pressure, e.g., phosgene, chlorine, bromine, fluorine, and cyanogen. These chemicals would only be handled in containers. Nonetheless, the hazard analysis evaluated all chemicals, including those that tend to be gases at standard temperature and pressure, and recognized that concentration limits must be placed on the handling of some chemicals that are highly toxic and have high vapor pressures. While it is doubtful that gases

would be contained in 55-gallon drums, it is possible that the chemicals could be present in small or trace quantities. Therefore, the hazards associated with all chemicals that could be handled by ISOCI were evaluated in the hazard analysis.

Comment No. 4-66

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The DEIR also provides no details on the extent to which hazardous materials would be transported by truck or railcar. It is unclear whether the assumed volumes of trucks and railcars presume that the same vehicles will be used to transport used hazardous materials to the project site for treatment and to transport resultant hazardous waste products away to disposal sites. Because deliveries likely come from locations that are remote from the disposal sites, the estimates of truck and railcar volumes are probably understated. The assessment of the risks of catastrophic accidents is further misleading because all materials will be transported in a highly congested industrial and freeway setting, representing an even greater exposure to dangerous conditions. Recalculation of baseline conditions as of 1995 would also substantively change many of the assumptions about the risks of on-site and transport accident associated with hazardous materials.

Response 4-66

See Responses 4-51 through 4-55 with respect to the comments on baseline.

The volumes of waste that can be handled by truck and railcar are discussed in the Chapter 2 Project Description in the dEIR and shown in Table 2-1 (proposed facility operations of 100 trucks per day and 10 railcars per day). The proposed project estimates for trucks and railcars will be included as a permit condition (Special Condition 2t). Therefore, truck and railcar traffic at the ISOCI facility have not been underestimated and will be subject to limits. The hazard analysis assumed all trucks and railcars are full which is likely to overstate the hazard impacts as trucks delivering wastes to the facility are not always full.

The hazard analysis uses the accident rate for freeways developed by the County of Los Angeles which is representative of the transport of wastes to the ISOCI site. Therefore, the hazard analysis considered that wastes would be transported on

freeways. No additional data have been provided by the commentator to suggest another methodology or factors that should be used.

Comment No. 4-67

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Conspicuously absent from DTSC's assessment of hazard impacts is any scenario involving risk of upset to the ten rail cars, which could store up to 250,000 gallons of' Hazardous waste at any given time on unprotected sidings without an adequate containment system. The rail cars could be derailed and toppled as a result of a credible accident scenario such as an earthquake, fire, or terrorist or other criminal act. Such an event could involve all ten rail cars and would likely result in a massive rupture and catastrophic spill that overwhelms the rail car containment system's spill pans stationed underneath the area where each rail car would be parked. Also, while the Hazard Analysis considers the risks associated with off-site rail accidents, it does not consider the risks posed by on-site rail accidents, which also could involve multiple rail cars and result in rupture and spill. If the spill pans and the drain cannot handle the volume of spilled waste from one or more rail cars simultaneously, the waste will not be diverted to and contained in a tank inside the facility, as intended, and would overflow into the rest of the facility. The Hazard Analysis fails completely to assess the risk and impact of these scenarios, which are much more likely to occur than they would be if the facility had adequate containment for the hazardous wastes stored on the rail cars.
Response 4-67

Please see Response to Comments 4-8, 4-9, and 4-10 regarding rail cars.

The hazards related to the ISOCI facility include flammability or toxicity hazards and were evaluated in Appendix F and summarized in subchapter 3.5 of the dEIR. The fire radiation calculations determined that the farthest distance that fire radiation would travel was 82 feet from the fire (containment facility), and the fire hazards are considered to be less than significant. The largest storage tank at the facility is about 71,000 gallons and would flow into containment Area 3 which is about 9,500 square feet. A spill from a railcar onsite (a maximum of about 25,000 gallons) would result in the material flowing into the railcar containment area and being pumped into the standby tank. The surface area of the railcar containment area is less than Containment Area 3 and less than 3,000 square feet; therefore, the impacts associated

with a railcar release would be less than the spills evaluated in the Hazard Analysis (Appendix F) and also less than significant.

The containment system has been designed to comply with all statutory and regulatory secondary containment requirements and is adequate to contain spills in the event of a release. The containment system for the railcar loading and unloading unit is required to contain precipitation from a 24-hour, 25-year storm event plus the greater of 10 percent of the aggregate volume of all containers or 100 percent of the capacity of the largest container within its boundary, whichever is greater. If a spill occurs, pumps are activated to pump the material into a dedicated spill containment tank with a capacity of 58,748 gallons. Therefore, the containment system at the ISOCI facility could handle the complete failure of more than two railcars. Although the containment system is not required to contain the contents of 10 railcars, DTSC believes it is protective of the environment.

Comment No. 4-68

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

In addition to on-site rail car derailment and leak scenarios, the Hazard Analysis failed to evaluate the following scenarios: valve left open spilling contents from rail or stationary tanks into secondary containment; transfer line coupling failure resulting in spill; pallet of four drums falling from a fork lift; distillation unit overheating and cracking; hazards associated with bulking and blending potentially unknown hazardous wastes and unanticipated adverse reactions; sodium hydroxide spill: fire leading to tank ruptures due to pressure increases associated with excessive heat; and tank-truck collision on Soto Street during entry or egress from the facility spilling tank contents.

Response 4-68

The hazard analysis examined several small releases as well as worst-case release conditions. The impacts associated with the worst-case release conditions (e.g., complete tank failure) were determined to be less than significant, following mitigation for some releases of toxic materials, so that any other types of releases would also be less than significant. The following are responses specific to the releases discussed in this comment.

Valve left open spilling contents from rail or stationary tanks into secondary containment: See Response 4-67 regarding railcar releases. A spill from a stationary tank was evaluated in the Hazard Analysis (see Appendix F of the EIR, tank failure). The tank failure evaluated in the Hazard Analysis assumes the complete release of material in the tank regardless of how it happened (e.g., earthquake, overfill, terrorist act, valve left open, etc).

Transfer line coupling failure resulting in a spill: Same as above regarding total tank failure, i.e., the spill would release into the containment area and generate the same impacts (worst-case) as a complete tank failure.

Pallet of drums falling from fork lift: The impacts associated with a rupture of drums are analyzed in Appendix F (see pages 4 through 21). The hazard impacts associated with drum handling are considered to be potentially significant and mitigation measures were proposed that would minimize the concentration of chemicals that could generate off-site exposures if released.

Distillation unit overheating: There is no proposed distillation unit at the facility.

Hazards associated with bulking and blending unknown hazardous wastes: Unknown wastes are not expected to be handled by the ISOCI facility. The facility is required to implement its Waste Analysis Plan (WAP) that includes sampling and testing wastes prior to any handling at the facility. Wastes that do not meet the requirements set out in the WAP will be rejected. The impacts associated with handling and spilling of wastes in drums is evaluated in Appendix F (see Pages 4 through 21).

- Sodium hydroxide spill: Sodium hydroxide was not identified as a chemical of concern associated with operation of the ISOCI facility as it is not expected to be handled at the facility and would only be present in small concentrations in a wastestream at the facility. A spill of sodium hydroxide would pool in the containment area and remain on-site. The vapor pressure associated with sodium hydroxide is virtually zero so the material would not migrate off-site and expose off-site individuals. Therefore, the impacts associated with a release of sodium hydroxide would be less than significant.

- Fires leading to tank ruptures: A fire in the storage tank is evaluated in Appendix F and summarized on pages 3-71 and 3-72 of the EIR. A fire that leads to a tank rupture would result in the maximum size fire of 9,500 square feet (discharge into the containment area). The fire radiation impacts would be limited to 45 meters.

- Tank-truck collision on Soto Street: A tank truck collision on Soto Street or any other street is discussed on pages 3-72 and 3-73 of the dEIR. The analysis indicates that the probability of a truck accident involving a release that would spill the contents of the tank is 0.0322 or about one spill in 31 years. A truck accident involving a spill is expected to be limited in size. Regulations have been developed by the U.S. Department of Transportation that governs the transportation of hazardous materials. These regulations require labeling, the use of approved containers, inspection and maintenance schedules for trucks and a variety of other requirements that minimize the potential for, and impacts associated with, an accident. The use of DOT-approved containers minimizes the potential for a release in the event of an accident. The containers are designed to withstand the impact of most accidents intact.

Finally, in the event of a tank truck accident that resulted in a spill, the transportation hazards associated would be low because the majority of trucks that transport hazardous waste to and from ISOCI haul oily wastes, oil product, and antifreeze. These materials would not generate a vapor cloud, exposing individuals to inhalation hazards.

Comment No. 4-69

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Additionally, none of the scenarios considers accidents involving the proposed new processes, such as the wastewater treatment facility, the steam injection unit, or glycol distillation. Nor does any of the scenarios consider the consequences of handling, storing, processing, or shipping any of the hundreds of proposed new chemicals that the facility seeks to receive. The Hazard Analysis is misleading and likely underestimates risks associated with accidental releases.

Response 4-69

The comment that “none of the scenarios considers accidents involving the proposed new processes” is incorrect. The hazards associated with the wastewater treatment facility are negligible based on the Hazard Analysis in Section 3.5 of the dEIR. The wastewater treatment facility will handle wastewater containing traces of oily water. The hazards associated with a release from the wastewater treatment facility would be limited to the hazards associated with water containing trace amounts of oil.

Wastewater produced by the wastewater treatment facility will be discharged to the sewer system and will be non-hazardous. A release from the wastewater treatment facility would not result in significant hazards impacts as the material would discharge to the containment facility. Because the wastewater is not flammable, no fire radiation impacts would be generated. Finally, the wastewater has virtually no vapor pressure and would not generate emissions of toxic air contaminants.

A steam injection unit is not included as part of the proposed project so there is no need to evaluate impacts from such a unit.

Glycol distillation involves the distillation of ethylene glycol or antifreeze. Ethylene glycol is not considered to be a chemical of potential concern (COPC) because no health data is available from OEHHA, the U.S. EPA's IRIS database, the U.S. EPA's Health Effects Assessment Summary Tables (HEAST) or CAPCOA's AB2588 Health Risk Assessment Guidelines.

The hazards associated with the handling and processing of the proposed new chemicals are analyzed in Appendix F (specifically see Table 3 of Appendix F) of the dEIR and summarized on pages 3-67 through 3-71 of the main text of the dEIR. It was determined that releases of certain chemicals could result in significant impacts unless their concentration in waste streams were regulated. Therefore, the dEIR imposed a mitigation measure to limit the concentration of certain chemicals in waste streams handled at the ISOCI facility.

Comment No. 4-70

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The hazard Analysis does not assess the risks from each of the hundreds of additional waste codes that the facility seeks to accept. The DEIR should have examined specific constituents separately and established limits on the amount of specific constituents. Needless to say, the Hazard Analysis does not assess the risks combining various waste codes, including the dangerous mixing of reactive chemicals with ignitable chemicals, either intentionally or mistakenly. Among other things, the DEIR should have considered the risks of mixing acids (or other materials, including water) and Cyanide - containing wastes, which can dissociate and create hydrogen cyanide. It also should have analyzed the risk of a fire involving D001 wastes and chlorinated solvents, which could result in dioxin exposure to workers on-site and to the surrounding

community. In addition, offsite dioxin exposure could occur from unintended creation of dioxin at an off-site hazardous waste processing facility.

Response 4-70

See Response 4-69 regarding the risks from the additional waste codes that the facility seeks to accept.

ISOCI will only treat used oil, oily waste and glycol wastes at the facility. The hazard analysis does not assess the risks of combining various waste codes because the Part B permit includes a Waste Analysis Plan (see pages 2-25 and 2-26 of the EIR) that includes pre-acceptance testing and waste acceptance screening. Ignitable wastes may be stored only in Container Management Area No. 7 under the condition that these wastes are stored greater than 50 feet from the property lines as required by California Code of Regulations, title 22, section 66264.176. Secondary containment is provided for this storage area. The mixing of incompatible materials is not expected to occur due to implementation of the Waste Analysis Plan, which will be included in the Part B permit. Additionally, as with all permitted facilities, ISOCI must be in compliance with California Code of Regulations, title 22, sections 66264.17 and 66264.177.

D001 wastes are ignitable wastes but not necessarily chlorinated solvents. The facility is not authorized to handle dioxins and an accidental fire onsite is not expected to be a source of exposure to dioxins for individuals off-site. Further, an onsite fire is expected to be extinguished within a short period of time and the concentrations of the materials generated as a by-product of a fire are expected to be much less than those generated in the event of a release because their concentration would be much higher in the latter scenario. Mitigation measures have been established to limit the on-site concentration of chemicals that are expected to generate significant hazards. Implementation of these mitigation measures would reduce hazard impacts to less than significant.

Workers on-site are trained in emergency response procedures and have access to personal protective equipment so that no significant exposures to ISOCI workers are expected. Also, ISOCI must comply with the requirements for personnel training pursuant to California Code of Regulations, title 22, section 66264.16.

Comment No. 4-71

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

CBE is additionally concerned with the processes to extract wastes onsite. Despite a decade of corrective action due to past contamination on the project site, the DEIR asserts that the "extent of contamination, sources of contamination and appropriate remediation efforts, if required, are considered speculative at this time." *See* DEIR, 2-28. After failing to disclose or analyze the nature of existing contamination, the DEIR impermissibly defers addressing the content and magnitude of additional contamination generated by the proposed new project components. The remediation plan is replete with non-committal phrases such as “may be required' and "if required." *See* DEIR, 2-28. 2-29. 3-74 & 3-75. Either DTSC does not know what new hazardous materials would be generated and what associated mitigation would be needed or has failed to disclose sufficient details in the DEIR to allow public review consistent with what CEQA requires. In some cases, DTSC provides conflicting information. For example, some sections of the Part B permit indicate that the project will use, store and treat toxins such as PCBs while others state that PCBs will not he handled onsite. PCBs are compounds that can be toxic at very low levels so it is critical for DTSC to clarify whether they will be used and if so, so analyze the potential impacts. CEQA requires full disclosure so that the public can assess details of any proposed mitigation measures. An agency may not defer investing impacts or specifying mitigation measures. *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308. Among other things, to do so undermines the public process by changing the project after opportunities for public review and input have passed. *See Id.*

Response 4-71

The only wastes that will be treated on-site are used oil, oily waste, and glycol.

The extent of all known contamination at the site has been described in the dEIR (see pages 3-74 and 3-75). However, DTSC will require additional site sampling and if additional contamination is detected, corrective action may be required. Corrective action, if required at the facility, will continue regardless of the final permit determination. The extent of contamination, sources of contamination, and appropriate remediation efforts, if required, are considered speculative at this time because there is no known contamination and will not be known until the RCRA Facility Investigation (RFI) has been completed. No further examination of speculative impacts is required in the dEIR (see CEQA Guidelines §15064(d)(3)). Therefore, any cleanup that would be necessary to address soil and groundwater contamination is not part of the proposed

project. A separate CEQA document will be prepared by DTSC when and if cleanup of the site is necessary.

DTSC does not expect that future ISOCI facility activities will generate contamination for the following reasons. The facility has been required to comply with secondary containment requirements and the facility is completely paved. All transfer and storage activities occur within areas with secondary containment. The secondary containment system for the ISOCI tank storage area has been designed and constructed to surround the tanks and to prevent any contact between underlying or surrounding soils and the contents of the secondary containment area in the event that wastes are released from the tanks. The containment units are constructed with a 12-inch thick concrete foundation with reinforced steel and the surface of the structure is coated with epoxy to render it impermeable. The walls are reinforced eight-inch thick concrete masonry. (The information regarding secondary containment is included on page 2-12 of the EIR). Therefore, no additional soil contamination is expected from hazardous wastes that may be stored at the site.

Also please see response 4-18 regarding PCBs.

Comment No. 4-72

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The DEIR also acknowledges that the project site is already identified on U.S. EPA's Resource Conservation and Recovery Information Systems (RCRIS) and Corrective Action Record (CORRACTS) listings. *See* DEIR, 3-93. The DEIR admits that the project site underwent a RCRA Facility Assessment (RFA) a dozen years ago that identified the release of numerous hazardous materials. *See* DEIR, 2-28. However, the DEIR lacks any detail about a subsequent Corrective Action Consent Agreement that was executed between ISOCI and DTSC in 1996, the extent of corrective actions that have occurred over the past decade, or about those which remain undone. *See* DEIR, 2-28 & 3-62. Consistent with CEQA's requirement that baseline conditions are based on the conditions when the NOP was issued in 1995, all of these actions and other changes have to be defined as part of the proposed project and cannot be included as part of the baseline conditions.

Response 4-72

The status of the corrective action at the ISOCI site is discussed in the EIR on pages 2-27 through 2-29. In addition, the Corrective Action that will take place at the ISOCI facility after the RFI is completed is not part of the proposed project in this EIR. If remediation of soil and groundwater is required as part of Corrective Action, a separate CEQA document will be prepared. Please note that Corrective Action will take place at the ISOCI facility regardless of the outcome of the final permit decision

Comment No. 4-73

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

DT SC should prepare a new Hazard Analysis that addresses the risks discussed above, including upset scenarios involving multiple rail cars. Furthermore, due to the facility's track record of noncompliance with hazardous waste laws and regulations, DTSC should require the facility to update the Hazard Analysis one year after expanded operations have begun with site-specific data.

Response 4-73

Responses to comments raised regarding the hazard analysis are included in Responses 4-65 through 4-72. Based on those responses, there is no need to update the hazard analysis in the EIR. The Hazard Analysis is not expected to change unless there are changes to the facility and its permit, i.e., changes in equipment, storage capacities, hazardous materials/wastes stored, etc. Any of these types of changes would require modification to the Part B permit and related CEQA evaluation. A Hazard Analysis conducted one year after expanded operations will not be necessary, unless changes to the permit are required. Also note that the Hazard Analysis in the Draft EIR is based on site-specific data.

Comment No. 4-74

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Initially, two aspects of the ISOCI project's wastewater contributions warrant closer analysis than the DEIR provides: the volume of wastewater added; and the content of the effluent wastewater after use in ISOCI's industrial and treatment processes. The project-specific impact chapter does not disclose the expected volume of ISOCI's wastewater generation, but Table 5-4 (page 5-14) indicates that 84,600 gallons/day would be generated. LA's Sewer Permit Allocation Ordinance No. 166,060 limits the annual increase in wastewater flow discharges to 5 million gallons per day (page 3-126), and the seven projects identified in the DEIR's cumulative analysis would together add 877,366 gallons/day. The DEIR's approach regarding effluent content is simply to rely on regulatory compliance with LA's NPDES discharge requirements. *See* DEIR, 3-85. Significant cumulative impacts were identified for wastewater and water demand but cumulatively considerable contributions were not addressed.

Response 4-74

The amount of industrial wastewater expected to be generated by ISOCI was evaluated on pages 3-83 thought 3-85 in the dEIR. The dEIR states, in part, “Wastewater will be treated to meet sewer discharge standards before batch discharge into the sewer system. This system will process about 84,600 gallons/day and the associated tank storage capacity is 228,040 gallons.” (See page 3-85 of the EIR.) This is well below the City of Los Angeles’ 5 million gallons per day. Note that some of the projects identified in the cumulative analysis do not discharge within the City of Los Angeles and, therefore, are not subject to the 5 million gallons per day limitation. Specifically, the Malburg Generating Station which is expected to generate about 331,200 gallons per day is located within the jurisdiction of the City of Vernon.

Since the ISOCI project-specific wastewater impacts would not be significant, they are not considered to be cumulatively considerable as defined by CEQA Guidelines§15065(c).

Comment No. 4-75

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The DEIR also states that ISOCI has filed under the State's general permit requirements for a general storm water permit. *See* DEIR, 3-81. It is unclear whether the facility currently is operating under a storm water permit, and if so, whether the facility has complied with the conditions of its permit. The DEIR also states that an industrial

wastewater discharge permit will be required for the facility to discharge industrial wastewater into the municipal sewer. *See* DEIR, 3-87. The DEIR does not provide specific discharge limits associated with anticipated future discharges. Given that many industrial wastewater dischargers within the Los Angeles County Sanitation Districts have violated their permit requirements and the facility's poor compliance record. DTSC should have discussed how the facility and state regulatory authorities will prevent the facility from becoming another permit violator. Finally, the DEIR fails to discuss potential impacts of the Project on the public drinking water well that is located one-half mile from the site. The DEIR should be revised to address these deficiencies.

Response 4-75

The ISOCI facility is currently operating under the requirements of the general storm water permit as discussed on page 3-81 of the EIR.

The amount of industrial wastewater discharge generated as part of the proposed project is discussed in Response 4-74 (84,600 gallons per day). Specific discharge requirements are not yet known because the wastewater discharge permit has not been filed or issued. ISOCI is proposing to install a wastewater treatment system as discussed on pages 3-83 through 3-85 that consists of several above ground enclosed tanks that will be used for: equalization (EQ), oil/water separation (OWS), coagulation/flocculation (CFT), dissolved air flotation (DAF), advanced oxidation processing (AOP), solids management (SM), and storage.

ISOCI will be required to obtain an industrial waste discharge permit for its proposed wastewater treatment plant and to hook up to the sewer since the facility currently has no wastewater discharge permit. A permit application for an industrial wastewater discharge permit will be required to be submitted to and approved prior to operation of the wastewater treatment plant. The ISOCI facility will be required to comply with the industrial waste discharge permit.

Please note that DTSC does not have authority to enforce permits issued by other regulatory agencies, including storm water permits and industrial wastewater discharge permits. Because the issues raised by the commentor are beyond the scope of the Response to Comments, DTSC suggests the commentor contact the City of Los Angeles Bureau of Sanitation as to the status and enforcement of the above-mentioned permits

Comment No. 4-76

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The DEIR also misrepresented flood hazards and overlooked floodplain management construction requirements. According to the Part B Permit but not the DEIR, the ISOCI property is in a floodplain. (*See* City of LA, June 3, 2004, Gary Lee Moore, P.E. City Engineer, and Philip L. Richardson, Program Manager, Bridge, Seismic Bond, Streets and Stormwater Program; Exhibit II-1 - LA. Letter and Map Regarding Flood Zone Determination, Part B Application, Volume 1 (172nd and 173rd pages of Part B Application electronic version.) Since floods can inundate and cause considerable damage to areas containing hazardous wastes, and any flooding can cause impacts releasing hazardous materials, failure of the DEIR to identify this hazard was fatal. A recirculated DEIR must address this issue.

The DEIR also fails to provide an evaluation of ISOCI's floodplain management construction requirements. The DEIR must include a full analysis of flood impacts on tanks, containers, secondary containment, piping, railcars, boilers, heaters, pumps, wastewater treatment, soil, and all other equipment, buildings, and materials onsite that could be impacted or carried away by a 100-year flood, potential options for floodplain construction, management, and project alternatives.

Response 4-76

The June 3, 2004 letter from Gary Lee Moore, P.E., states, “The main building on the property is located above the Base Flood Level and is considered to be outside the Special Flood Hazard Area (SFHA); therefore flood insurance is not required by the Federal Government. The remaining lot property remains in the SFHA; therefore, new construction must comply with floodplain management construction requirements.” The dEIR did not consider floodplain management requirements because the main building is located above the Base Flood Level. A Special Condition has been added to this permit (2w) which states: “Within 60 days of the effective date of this permit, ISOCI shall demonstrate that the facility is not located within a 100-year floodplain. If ISOCI cannot demonstrate that the facility is not located within a 100-year floodplain, it shall submit within 90 days a plan to comply with California Code of Regulations, title 22, section 66264.18(b).”

Comment No. 4-77

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

While the Part B application found that groundwater and drinking water levels can be shallow (Corrective Action Consent Agreement, Health and Safety Code Section 25187, State of California Environmental Protection Agency, Department of Toxic Substances Control, In the Matter of Industrial Service Oil Company, Incorporated. Docket HIWCA P3-00 01-002, included in Part B Permit Application, Volume 3, 258th, thus triggering a groundwater impact analysis the DEIR did no such analysis. *See* DEIR, 3-85. The DEIR must evaluate past, present, and future site contamination with respect to drinking water, groundwater, and surface water. This is particularly critical because soil onsite was found to be contaminated, and site investigation of that contamination has not been completed.

Response 4-77

The potential for groundwater impacts was addressed in the EIR on pages 3-85 and 3-86. As stated in the EIR, there is no evidence that ground water contamination has occurred at the ISOCI site from historical site operations. Soil contamination detected at the site has been limited to the surface and within about five feet. The depth to ground water (about 235 feet) makes it highly unlikely that ground water contamination could occur. No ground water recharge areas are located on or near the project site. All operating portions of the ISOCI site are paved to avoid contamination of soil and ground water. This finding in the EIR is not inconsistent with the Corrective Action Consent Agreement which states, "Although groundwater beneath the Industrial Service facility is estimated to occur 200 to 250 feet below ground surface (bgs), local perched groundwater could be present at much shallower depths, particularly after the heavier than normal rainfall." In addition, the Corrective Action that will take place at the ISOCI facility after the RFI is completed is not part of the proposed project in this EIR. If remediation and clean up of soil is required as part of Corrective Action, a separate CEQA document will be prepared. Please note that Corrective Action will take place at the ISOCI facility regardless of the outcome of the final permit decision.

Comment No. 4-78

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The DEIR must evaluate the significant impacts of dioxins, PCBs, lead, mercury, and other highly hazardous materials that may be discharged into the proposed sewer hookup. This project will cause a significant increase in pollutant sewer discharge from zero to 84,000 gallons per day. *See* DEIR, 3-85. The DEIR concluded that these impacts do not require analysis because DTSC expects the facility to comply with future permit limits. However, given past non-compliance, and due to the facilities complete inexperience in meeting sewer discharge limits, the decision to skip CEQA analysis on this topic is not justified.

Response 4-78

Please see Response to Comments 4-74 and 4-75. The ISOCI facility is authorized to treat only used oil, oily wastes, and antifreeze/glycol. Wastewater generated by ISOCI is not expected to have dioxins, PCBs, lead or mercury as these wastes will not be treated onsite. Please note that the City of Los Angeles Bureau of Sanitation issues discharge permits and is responsible for ensuring that discharge levels are not exceeded and that its permit conditions are complied with. DTSC does not have the authority to oversee compliance of discharge permits.

Comment No. 4-79

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

One striking deficiency of the traffic impact evaluation is that no analysis is provided for freeways or freeway ramps, even though the project site is surrounded by four heavily congested freeways- The proposed project would primarily generate truck traffic that would have disproportionately more disruptive effects on nearby freeways, but these effects are not analyzed. Only intersection Level of Service (LOS) analysis is provided (see below) and ISOCI project truck trips are assumed to be evenly distributed through the workday. *See* DEIR, Appendix G. This assumption reduces the likelihood that significant impacts would be disclosed in the peak hour conditions for which LOS analysis was conducted. Yet another major shortcoming of the transportation analysis is that baseline conditions were assumed to be 2005. S*ee* DEIR, 3-114, instead of 1995 when the NOP was issued. All aspects of the transportation impacts analysis are defective because none account for ISOCI facilities added since 1995 on the project site as properly part of project or added in its surroundings as part of growth from baseline conditions.

Response 4-79

DTSC disagrees with the comment that all aspects of the transportation impacts analysis are defective. The Level of Service (LOS) analysis provides the localized traffic impacts in the vicinity of the ISOCI facility. Traffic impacts associated with ISOCI operations are concentrated in the vicinity of the ISOCI facility because all trucks enter and exit the facility. From there, the trucks spread out into different directions. Since the localized traffic impacts were determined to be less than significant, traffic impacts at locations further away from the ISOCI facility are also less than significant because fewer trucks would be impacting a given intersection or area.

The traffic analysis assumed that about 21 trucks will enter and/or exist the facility during peak traffic hours. This is a conservative ("worst case") analysis because the ISOCI facility is open 24 hours per day six days per week so that most traffic avoids peak hour conditions to minimize the transport times and maximize the use of the trucks for other purposes than to/from ISOCI.

The Los Angeles Congestion Management Plan "Traffic Impact Analysis Guidelines" require analysis of all surface street-monitoring locations where proposed projects adds 50 or more peak hour trips. Based on the list of surface street monitoring stations listed in the CMP, there are no stations within the study area. The CMP also requires all freeway segments to be analyzed where the proposed project adds 150 or more trips during the peak hour. No CMP freeway stations need to be analyzed because the proposed project will generate less than 50 peak hour trips. Therefore, potential project impacts on the County CMP would be less than significant.

A comparison of traffic data from 1995 was compared to more recent traffic data taken in 2001 and adjusted to 2005. It was determined that the use of the more recent data would result in higher impacts associated with ISOCI at all but one intersection in the vicinity of the proposed project. Therefore, the use of the traffic data for 2005 provides a more conservative analysis overall (higher traffic impacts) than the use of 1995 traffic data. Therefore, the use of the most recent data accounts for traffic changes in the surrounding environment that have occurred in recent years and provides a more accurate (and higher) estimate of the ISOCI traffic impacts. Therefore, the traffic analysis is not defective but provides a worst case estimate of traffic impacts.

Comment No. 4-80

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The intersection LOS analysis assumes high lane capacities (1,600 vehicles/hour) for every intersection approach lane that may not be appropriate for conditions in this area. *See* DEIR, Appendix G. No adjustments were made in lane capacities to reflect the presence of high volumes of trucks, complex street geometries, or other impediments, that reduce of effective capacities. Use of unadjusted, default capacity assumptions is contrary to typical traffic engineering practices and is particularly problematic because LOS calculations were based on volume/capacity ratios (V/C). When LOS is based on volume/capacity ratios and lane capacities do not reflect actual conditions, the actual extent of congestion and impacts is underestimated because the analysis assumes that the volumes of vehicles that can be accommodated is greater than it actually is, e.g., unrealistically favorable V/C ratios and corresponding LOS result.

Response 4-80

The lane capacities, intersection configurations, and signal phasing used in the LOS analysis are based on site surveys of each intersection and are considered accurate for the intersections in the analysis so that traffic impacts have not been underestimated. The comment that "the intersection LOS analysis assumes high lane capacities (1,600 vehicles/hour) for every intersection approach lane that may not be appropriate for conditions in this area" is incorrect. Lane capacities varied for each intersection depending on intersection characteristics. For example, the Soto Street northbound left movement had a left turn capacity of 1,600 VPH and a through movement capacity of 3,200 VPH at the Washington Street intersection. The southbound lanes on Soto Street had the same capacities. The 1,600 VPH per lane capacity is very conservative (it conservatively includes a mix of urban traffic including cars, trucks, and buses). The lane capacities for each intersection are provided in detail in Appendix G of the dEIR and varying based on specific characteristics of each lane at each intersection. As noted in the dEIR, most of the major streets in the vicinity of the ISOCI facility are high volume streets. Soto Street carries over 40,000 vehicles a day. ISOCI will generate a maximum of 100 trucks and about 30 employees, which is a small fraction of the total traffic on Soto Street.

Modeling of traffic impacts assumed that one truck was equivalent to 3 passenger vehicles (referred to as 3 passenger car equivalents or PCEs). Therefore, the traffic analysis considered the impacts provided by trucks.

Comment No. 4-81

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

DTSC has used traffic LOS methodologies and significance standards that are apparently consistent with those used by the Los Angeles Department of Transportation. *See* DEIR. 3-18. LOS calculated from intersection V/C ratios are, however, rarely used in most California jurisdictions. LOS more commonly has been calculated over the past two decades from the average delay standard of the 1984 and 2000 highway Capacity Manual (HCM) and its various updates. Whenever V/C ratios are used, the importance of making local adjustments to reflect actual capacity becomes more crucial to compensate for the failure to include the adjustments imbedded in the more modern HCM methodologies.

Response 4-81

The traffic analysis has been prepared in compliance with the requirements of the City of Los Angeles Department of Transportation (LADOT) and the City of Los Angeles' CEQA Thresholds Guide which indicates that impacts are measured as the "effect of the project on traffic operating conditions, expressed in terms of level of service (LOS) and either volume to capacity (V/C) ratio (for signalized intersections) or average vehicle delay (for unsignalized intersections)." The comment provides no alternative method for completing the traffic analysis. The City of Los Angeles' CEQA Thresholds Guide requires that the existing LOS at intersections be quantified and that V/C ratios and LOS be summarized for the existing conditions and the proposed project conditions. Therefore, the traffic analysis for ISOCI was prepared consistent with City of Los Angeles' policies as discussed above.

Comment No. 4-82

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

LADOT's threshold criteria are cited (p. 3-118) as the basis for determining that the ISOCI project's traffic contributions would be insignificant. These criteria address project-specific impact, but do not clearly delineate how project contributions to adverse cumulative conditions are evaluated or even what LOS conditions constitute a

significant impact. LOS E or F are typically considered to be significant in most jurisdictions, and on this basis two intersections for AM condition, and three intersections for PM conditions would have significant cumulative traffic impacts and one would degrade From LOS D to E for project conditions . *See* DEIR 3-119. Table 3.10-2. & 5-22, Table 5-6. Degradation of the Soto/Washington intersection from LOS D to LOS E with the addition of the ISOCI project should be identified as a project-specific significant traffic impact. The ISOCI project's contributions to degradation to adverse cumulative conditions at multiple intersections should also be identified as cumulatively considerable contributions rather than dismissed as inconsequential. *See* DEIR 5-23.

Response 4-82

The significance thresholds are those developed by LADOT and identified as the appropriate significance thresholds by the City of Los Angeles' CEQA Thresholds Guide. As stated on page 5-4 of the dEIR, "The significance criteria for each environmental resource discussed in Chapter 5 is the same as the significance criteria for each environmental resource discussed in Chapter 3."

The significance criteria developed by the City of Los Angeles for traffic indicates that a project may result in a significant impact on intersection capacity if the estimated project traffic would increase the volume to capacity ratio to 0.010 (or one percent) if the final LOS is E or F (see EIR page 3-118). Therefore, based on the LOS analysis at the Soto Street/Washington Boulevard intersection the V/C ratio would increase by 0.001 (one-tenth of one percent), which is 10 times lower than the significance criteria and, thus, less than significant.

The cumulative traffic impacts are analyzed in Chapter 5 of the dEIR (see pages 5-20 through 5-23). As stated in the dEIR, the traffic impacts associated with the continued operation of the ISOCI facility alone were determined to be less than significant. Since the ISOCI project-specific traffic impacts would not be significant, they are not considered to be cumulatively considerable as defined by CEQA Guidelines §15065(c).

Note that the cumulative traffic impacts are considered to be significant based on general growth in the area and mitigation measures were imposed (see page 5-23).

Comment No. 4-83

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The DEIR presents three alternatives: No Project, Facility Relocation, and Reduced Operations. The DEIR defines the No Project Alternative as being complete closure of the ISOLI facility and postulates the supposedly dire effects associated with moving waste products elsewhere. *See* DEIR 4-3 through 4-11. In outlining the basis for the "No Project Alternative," the DEIR acknowledges that delineation of the No Project "condition that precedes the project ... cannot as readily be defined." *See* DEIR, 4-3, Definition or the No Project Alternative as `'no development and no operations" is typical when a comparable use does not exist on a project site but is atypical when expansion of an existing facility is proposed. More typically, when expansion of an existing facility is proposed, the No Project Alternative represents no changes to existing or baseline conditions. CBE posits that the logical conclusion inherent in DTSC's definition of the No Project Alternative is that, unless a Part B permit is granted after recirculation and certification or an EIR for a properly-defined ISOCI project, the ISOCI facility will forfeit all of the temporary entitlements it has had under its Part A permits.

Response 4-83

The commentor is correct that if the Part B permit is not granted, the ISOCI facility will not be allowed to continue to operate and the authorizations under its Part A permit would be eliminated. See page 4-3 of the dEIR which indicated that the following actions are assumed to occur under the No Project Alternative: "(1) denial of ISOCI's Part B permit application and consequent termination of the Interim Status Document under which ISOCI is currently operating the facility; (2) cessation of all hazardous waste storage and treatment activities at the ISOCI site that would require a Part B permit; (3) delivery of hazardous wastes currently and potentially managed at the ISOCI site to other locations for management and/or disposal; and (4) re-use of the ISOCI site for another heavy industrial use."

Comment No. 4-84

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The DEIR quotes the Southern California Hazardous Waste Management Plan's conclusion that "the facility siting process is a long and arduous one, with little assurance of success," as a basis for excluding the facility relocation alternative. *See id*., 4-1 l. However, the proposed expansion of the facility's operations at the current

location must go through the same siting process because it requires a CUP and thus is subject to Tanner process.

Response 4-84

The facility relocation alternative is evaluated in the EIR (see pages 4-11 through 4-18). The dEIR provides the following statement regarding siting new facilities:

> While a general discussion of this alternative is provided to present a full analysis of alternatives, it is doubtful that an alternative site could be found within Los Angeles County where permits could be secured and land could be found that has a greater distance to residential areas than the current site. The feasibility of securing all necessary permits is remote given the fact that no new hazardous waste facilities have been permitted in Southern California in the last 20 years. The siting of a new facility would trigger implementation of the Tanner Act regulations (California Health and Safety Code Section 25199.7) which require extensive public notification and involvement. As stated in the South California Hazardous Waste Management Plan (SCHWMA, 1994), "the facility siting process is a long and arduous one, with little assurance of success." (see page 4-11 of the dEIR).

The expansion of the ISOCI facility will trigger the requirement for a Conditional Use Permit (CUP), issued by the City of Los Angeles and the requirements of the Tanner process would apply (see page 3-95 of the dEIR). However, continued operation of the existing hazardous waste operations at the ISOCI facility will not trigger the requirement for a CUP or the Tanner Process.

Comment No. 4-85

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The Reduced Operations Alternative corresponds to what EIRs more typically define as the No Project Alternative, i.e., retention with no change to ISOCI's existing operations. The Reduced Operations Alternative implies that it is a version of the ISOCI expansion project at a smaller scale. In that sense, its title is misleading. The DEIR fails to address the mandate in CEQA Guideline § 15126.6 that "alternatives shall focus on alternatives to the project or its location that are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some

degree the attainment of the project objectives, or would be more costly." CEQA requires that one or more EIR alternative must be defined so as avoid or substantially reduce all significant project impacts, including cumulatively considerable contributions to adverse cumulative impacts. The addition of alternatives compliant with this requirement would itself necessitate recirculation of the DEIR based on CEQA Guidelines §15085.5. The additional project alternative needs to encompass the additional significant impacts related to air quality, waste management, hazardous materials, geology and seismic safely, and transportation that CBE has established in this comment letter.

Response 4-85

As noted in Response 4-83, if the Part B permit is not issued, the ISOCI facility cannot continue to treat hazardous wastes, including those allowed under its current Part A permit. The alternative suggested by this comment was evaluated as Alternative 3 (see dEIR Chapter 4). This alternative assumes that the facility operates with no expansion. This alternative avoids or reduces all impacts associated with the operation of the ISOCI facility, with the exception of operational emissions because trucks would be required to transport oil waste and product. Alternative 3 would reduce the potentially significant air quality impacts but would not eliminate them (see Table 4-6). Therefore this alternative complies with CEQA Guidelines §15126.6(a) which requires “alternatives that would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project. . .” No feasible alternative was identified that would eliminate all operational emissions or reduce them to less than significant because the oily waste stream will continue to be generated by other industrial and consumer activities (e.g., driving cars), and will continue to be transported to oil treatment facilities, thus generating emissions. Further, no other feasible alternative has been suggested that would eliminate all impacts associated with the generation of oil/antifreeze wastes. In conclusion, no additional alternatives analysis is required and no changes to the dEIR have occur that would require recirculation of the dEIR as identified in CEQA Guidelines §15088.5.

Comment No. 4-86

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The DEIR’s cumulative impacts analyses is fundamentally deficient in at least three respects. First, the DEIR presents inconsistent analytical approaches. Even though the

DEIR identifies up to nine known projects in the project vicinity, the quantitative cumulative analysis is sometimes based on assumption of an annual one percent growth rate and sometimes based on a list of future projects. *See* DEIR, 5-6 & 5-14. CEQA Guideline §15130(b) provides that a lead agency may determine cumulative conditions based on.

> (1) Either: (A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency; or (B) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or area wide conditions contributing to the cumulative impact.

Instead of utilizing either a list-based or plan-based definition of cumulative conditions, the DEIR is internally inconsistent and uses a growth rate for some topics, e.g., transportation, and a list to analyze cumulative impacts for other topics, e.g., air quality. The DEIR neither acknowledges the inconsistent use of different cumulative methodologies nor even attempts to explain why closely-related topic; such as transportation and air quality are based on disparate assumptions for cumulative conditions. The DEIR's disparate approach to assessing cumulative impacts creates confusion that defies CEQA's requirements for a thorough and consistent evaluation of cumulative impacts. Use of different methodologies to analyze cumulative impacts in the DEIR without a carefully reasoned rationale, that has not been provided -- is inconsistent with CEQA Guideline §I5130(b).

Response 4-86

The cumulative impact analysis used the project list to determine the impacts associated with most of the environmental resources. However, sufficient data were not available for some of the projects to complete sufficient analysis so general assumptions from plans were used. Note that CEQA Guidelines §15130(b) indicates that a lead agency may determine cumulative conditions based on “(1) Either: (A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency; or (B) A summary of projections contained in an adopted general plan or related planning document which has been adopted or certified, which described or evaluated regional or area wide conditions contributing to the cumulative impact.” The impacts associated with all environmental resources in the dEIR were evaluated using one of the two above approaches and is, therefore, consistent with CEQA Guidelines §15130(b). Most of the resources were evaluated using the project list. However, sufficient data are not

available for some projects, specifically the Sears Tower proposed development, to complete the traffic analysis. The proposed development of the Sears Tower would generate tens of thousands of trips per day. The road system cannot currently support the level of proposed development so it is assumed that some type of significant reconfiguration to local streets and intersections will be required. Until the project is more defined, the actual traffic impacts are speculative and cannot be determined. Therefore, rather than using the project list for traffic impacts, a one percent per year growth rate has been assumed.

Comment No. 4-87

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Second, the significance standards regarding what constitutes significant cumulative impacts are neither clearly stated nor consistently applied. The DEIR sets forth project - specific standards for significance, generally without specifying the bases for these criteria. The DEIR provides virtually no guidance to establish what might constitute a cumulative significant impact. Table 4-7 (page 4-24) provides a useful (although not fully complete or inaccurate) summary of project impacts by topic compared to the DEIR alternatives, but no comparable summary is provided for cumulative impacts. The DEIR text acknowledges significant cumulative impacts related to air quality criteria pollutants (page 5-6), toxic air contaminants (page 5-7), wastewater (page 5-13), water demand (page 5-15), land use conflicts (page 5-17), police and fire services (page 5-19), and traffic (page 5-22). The DEIR does not provide the precise basis for these determinations. DTSC's failure in the DEIR to clearly define and apply thresholds of significance for cumulative impacts and related to the project's cumulatively considerable contributions violates CEQA Guideline §15064(h).

Response 4-87

DTSC disagrees that the significance standards regarding what constitutes significant cumulative impacts are neither clearly stated nor consistently applied in the dEIR. The significance criteria for each environmental resource for project and cumulative impacts have been specifically defined in Chapter 5 – Cumulative Impacts of the dEIR as required in the CEQA Guidelines § 15130. The first paragraph under each environmental resource evaluated in Chapter 5 - Cumulative Impacts discusses whether cumulative impacts are considered to be cumulatively considerable. For example, the first paragraph in Section 5.3.9 reads as follows:

> "For the proposed project, the project's contribution to transportation and traffic impacts are not cumulatively considerable and thus not significant because the environmental conditions would essentially be the same whether or not the proposed project is implemented (CEQA Guidelines §15130). The cumulative transportation and traffic impacts evaluated in this section are located within about one mile of the proposed project and generally include the Boyle Heights area."

CEQA Guideline §15064(h) provides guidelines when assessing whether a cumulative effect requires an EIR. Since a dEIR has been prepared for this project, this section of the guideline does not apply.

Comment No. 4-88

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Third, cumulatively considerable contributions are ignored even when adverse cumulative conditions are acknowledged. The treatment of project contributions to significant cumulative impacts is essentially a tautology in the DEIR. The only effects identified as contributory in the DEIR are air quality criteria pollutants because these were the only project-specific significant impacts identified. In all other instances, the approach is that if, "project-specific impacts would not be significant .., they are not considered cumulatively considerable." (e.g. *See* DEIR, 5-8 & 5-23.) Even if a project does not have project-specific significant impacts, the project may have cumulatively considerable contributions to adverse cumulative impacts. The legally-flawed approach in the DEIR is to treat project contributions as inconsequential even when cumulative impacts are severe. A project's cumulatively considerable contributions to adverse cumulative conditions are required to be evaluated consistent with the requirements specified in *Communities for a Better Environment v. California Resources Agency (2002) 103 Cal.App4th 98, 119-121; and Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App3d 692, 718.* The DEIR is legally deficient because the project's cumulatively considerable contributions to adverse cumulative conditions have not been evaluated consistent with CEQA requirements.

Response 4-88

See Response 4-87 regarding cumulative considerable impacts.

Comment No. 4-89

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The DEIR does not evaluation impacts from biological resources. While the Part B permit application found that facility runoff could already be impacting biological resources, the DEIR concluded without analysis that no impacts would result. Potentially significant impacts must be analyzed in the DEIR.

Response 4-89

As discussed in the dEIR (see page 3-131), the project impacts on biological resources were considered to be less than significant in the Notice of Preparation (see Appendix A). Appendix A indicates that the facility is located in a highly urbanized area and the project site has been thoroughly cleared and graded. The only plant life on the site is weeds and some landscape plants. Wildlife species are non-existent on the site. Wildlife habitat in the surrounding area is limited to species that can live in an urbanized environment. There are no rare, endangered, or threatened plant or animals at or near the site. Therefore, no significant biological impacts are expected due to the proposed project. This comment does not provide any evidence that biological resources are located within the area or would be impacted by the proposed project.

Comment No. 4-90

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

DTSC Is Prohibited From Approving the Project Until the City Makes a Consistency Determination

The City of Los Angeles has made clear and the DEIR acknowledges that a CUP will be required for the facility's proposed operations because they constitute a "major modification" to the facility. *See* DEIR 3-88, 3-95. ISOCI applied to the City for CUP on August 1, 1996. On March 12, 1997, the City concluded that the application was incomplete. ISOCI failed to take any action to correct the deficiencies. As a result, the City took no further action on the application. The City terminated all proceedings on the application on December 20, 2004 due to lack of activity. There is no indication in the

record that the City is even reviewing expansion of the ISOCI facility. No project can move forward until the facility submits a new CUP application.

DTSC may not approve the project unless and until the City has concluded that the Project is consistent with the Los Angeles County Hazardous Waste Management Plan. *See* Health & Safety Codes § 25135.4. The DEIR asserts that the Project is consistent with the plan. To the best of our knowledge, however, the City has made no such conclusion. Until the City makes such a consistency determination, DTSC is prohibited as a matter of law from approving the project. Moreover, DTSC will violate its internal policies if it certifies the DEIR prior to the City's consistency determination. Chapter 9.0 of DTSC's Permit Writer's Handbook states in pertinent part:

> Pursuant to Cal. H&S Code section 25135.4, no project can be approved unless the local governing body of the city or county where the project is located makes a determination that the proposed project is consistent with the local hazardous waste management plan. The permit writer should contact the local entity in which the project will be located to obtain a copy of the consistency finding made by the local governing body. This finding should be obtained early in the permit process to avoid delays in the final permit decision made by DTSC[.]

DTSC should adhere to its own policies and wait for the City to evaluate the Project before certifying the DEIR.

Response 4-90

Comments regarding the status of ISOCI's submittal of an application for a conditional use permit with the City of Los Angeles are noted.

Pursuant to Health & Safety Code section 25135.4, a consistency finding with the applicable county hazardous waste management plan (CHWMP) is required to be made by the legislative body of the city or county in which the new offsite facility, or the expansion of an existing offsite facility, is proposed, and applies only if an approval action pursuant to Title 7 (commencing with Section 65000) of the Government Code is necessary. In this case, the Los Angeles City Council appears to be the legislative body responsible for making such a determination.

Further, Health and Safety Code section 25199.3 states, in part, that "…[U]nless a state agency is prohibited by statute from approving a permit before the granting of a local land use decision, the state agency shall not refuse to issue a permit for a hazardous waste facility project on the grounds that the applicant has not been granted a land use permit, except that the state agency may provide that the permit shall not

become effective until the applicant is granted a local land use permit...” Because there is no statutory prohibition against approval of Hazardous Waste Facility permits prior to the issuance of land use decisions, DTSC is required to move forward with its permit process. In order to comply with all statutory and regulatory requirements, the final permit will include a provision that the permit is not effective until the applicant is granted a local land use permit. This condition is listed as Special Condition 2u in the permit.

The comment that the dEIR stated the ISOCI facility was “consistent” with the LACHWMP is incorrect. The dEIR relied on the findings contained in the LACHWMP. The LACHWMP stated, in part, that the “ISOCI facility is in an area suitable for hazardous waste facilities since portions of the City of Los Angeles have been deemed an adequate location for hazardous waste treatment facilities”. The dEIR concluded that the ISOCI facility is “expected to be in conformance with the siting criteria” identified in the LACHWMP, and lists how the facility specifically met those criteria. This analysis was required to support the findings of the Land Use & Planning portion of the dEIR.

Chapter 9.0 of the DTSC Permit Writer’s Manual provides an accurate description of the requirements pertaining to Health and Safety Code section 25135.4 and was intended to provide guidance to permit writers on the need to verify the status of the local consistency finding necessary to support the draft EIR, so that delays in the final permit decision by DTSC would be avoided. In the case of the ISOCI facility, DTSC contacted the City of Los Angeles and was informed that a consistency finding was not required since the existing facility was granted "deemed-to-be-approved" conditional use authority.

Comment No. 4-91

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

DTSC May Not Approve the DEIR Until Tanner Act Proceedings Have Been Initiated

The DEIR acknowledges that the proposed project is subject to the requirements of the Tanner Act, Health & Safety Code§§ 25199, *et seq.* However, the DEIR gives the misimpression that proceedings pursuant to the Tanner Act already have been initiated. The DEIR explains that the Office of Permit Assistance in OPR conducted a pre-application meeting with the public in 1996 to discuss the project. However, no further

action has been taken pursuant to the Tanner Act. To the extent any Tanner Act proceedings occurred, they were effectively terminated as a result of the City terminating ISOCI's application for a CUP. The Tanner process must begin anew.

The Tanner Act establishes a detailed process that ensures community involvement in significant land use decisions concerning hazardous waste facilities. At least 90 days before applying for the CUP, a notice of intent to make the application must be filed with the Office of Permit Assistance in OPR. *See* Health & Safety Code §25199.7(a) The City is then required to publish notice of the proposed project in the local newspaper, post notices in the affected area, and notify by direct mail contiguous property owners. *See id*., § 25199.7(a). Once the application for the CUP is complete, the City has up to 30 days to form a seven-member local assessment committee to advise it in considering the land use application. *See id*., § 25199.7(d). The local assessment committee advises the City as to community concerns, conditions necessary to protect human health and the environment, and compliance with CEQA. *See id*., § 25199.7(d). In order to carry out this function, the local assessment committee may obtain technical assistance from the City to adequately review the DEIR. *See id*.,§25199.7(d), (g). Within 60 days of receiving notice that the application for the CUP is complete, OPA is required to convene a meeting of the lead and responsible agencies for the project, the proponent, the local assessment committee, and the interested public for the purpose of evaluating the project. *See id.,* §5119.7(e).

The statutory scheme makes it clear that the Tanner process should run simultaneously with the CEQA process to ensure the public's meaningful involvement. In the present case, however, the Tanner proceedings are not scheduled to begin until the CEQA process is complete. The Legislature has deemed this type of circumstance to be unacceptable: "Present procedures for approving hazardous waste facilities do not provide meaningful opportunities for public involvement and are not suitably structured to allow the public to make its concerns known and to cause those concerns to be taken into consideration." Health & Safety Code § 25199(a)(3).

A full and comprehensive process must be established to engage the affected community in the environmental and land use review for the facility's proposed expansion. The community involvement process mandated by the Tanner Act is the appropriate way to engage the community and address issues of environmental justice. DTSC should schedule the Tanner process to run simultaneously with the CEQA environmental review process so that hazardous waste issues are not artificially divorced from the land use issues that would be left to the local assessment committee under DTSC's flawed process.

Response 4-91

DTSC disagrees that the dEIR gives "the misimpression that proceedings pursuant to the Tanner Act already have been initiated." The dEIR correctly states that "In order to comply with the Tanner process requirements, ISOCI has submitted a Notice of Intent to the Office of Permit Assistance to provide official notice of the facilities (sp) intent to proceed with the proposed project." As reflected in the comment, the Office of Planning & Research (OPR) conducted a pre-application meeting with the public to discuss the project but that no further action has been taken pursuant to the Tanner Act. The City terminated all proceedings on the CUP application on December 20, 2004 due to lack of activity. ISOCI is not required to submit a new CUP application to the City until it decides to move forward with the proposed activities in the draft Permit. The fact that an application for a land use decision was not re-filed by ISOCI essentially precludes the provisions of the Tanner Act from being initiated, and there is no requirement for such a filing to be made by ISOCI with the City. Therefore, the comment that termination of the Tanner Act proceedings and subsequent termination of ISOCI's application for a CUP provides justification that the "Tanner process must begin anew" is incorrect. Please note that DTSC does not have the authority to require ISOCI to submit a CUP application nor does it have the authority to require the City to begin the process pursuant to the Tanner Act.

DTSC agrees that the California Environmental Quality Act (CEQA) and Tanner Act processes should run simultaneously whenever possible. In the case of the ISOCI permit determination, these processes were initiated after DTSC consulted with the City of Los Angeles of its intent to act as Lead Agency for preparation of an EIR for the proposed project. The City expressed no opposition to this role by DTSC, as demonstrated by the September 22, 1994 letter from Allan Plaza, DTSC Unit Chief, Facilities Management Branch to Franklin Eberhard, Deputy Director, Los Angeles City Department of Planning, and subsequently participated in the Notice of Preparation (NOP) and scoping process. Subsequent to its responsibilities under CEQA, DTSC contacted the City of Los Angeles to determine if the proposed project would require a land use decision by the City that would trigger the requirements of the Tanner Act. At that time, the City indicated that Ordinance Number 163,620 enacted on May 11, 1988, granted "deemed-to-be-approved" conditional use authority to existing hazardous waste facilities (including ISOCI) and required all new and modified hazardous waste facilities to obtain a conditional use permit. This ordinance allowed existing hazardous waste facilities, including ISOCI, to legally operate. The City indicated that approval would be required for any new or modified hazardous waste facilities.

As stated in the dEIR, the City of Los Angeles had "determined that the proposed project involves the significant expansion or modification of the facility", thus triggering the requirement to obtain a conditional use permit pursuant to the provisions of Health and Safety Code section 25199 et seq. As correctly noted, ISOCI submitted an application for a land use decision with the City of Los Angeles and a Notice of Intent (NOI) to the Governor's Office of Planning & Research (OPR) to initiate the "Tanner" process for proposed facility modifications.

DTSC views its decision to proceed with the environmental review process under CEQA for the permit determination subject to its approval, and the concurrent actions by ISOCI and the City as they relate to the Tanner process as occurring simultaneously and in compliment with each other as required under both Acts. It is believed that this approach has facilitated a full and comprehensive process thus far that engages the community in the environmental and land use review for the proposed project.

Comment No. 4-92

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

If DTSC Cannot Coordinate Its CEQA Process with the City's Tanner Proceedings, DTSC Should Re-designate the City as Lead Agency

Numerous agencies are responsible for approving this facilities hazardous waste facility permit, most notably the City of Los Angeles who must issue the CUP. DTSC became the lead agency when the City's Planning Department was unsure whether a CUP would be required for the facility:

> LA Planning is the lead agency for the Tanner Law requirements. [DTSC] is the lead agency for CEQA. This is N0T the normal way it is done. Typically, the Lead Agency requiring the CUP is the Tanner and CEQA lead. However, last year [1995] LA Planning was not certain if a CUP would be required. Therefore, the applicant and DTSC preceded [sic] as if no CUP would be required.

However, just a few months after DTSC took on the role of lead agency, in early 1996,the City determined that a CUP would be required for the facility's proposed operations. Nonetheless, DTSC continued its role as lead agency.

Since the City must make a critical land use decision concerning a "major modification to the facility that triggers the requirement for a CUP, the City is the natural lead agency. ”The Lead Agency will normally be the agency with general governmental powers, such as a City or county, rather than an agency with a single or limited purpose ..." CEQA Guidelines, § 15051(b)(1). Moreover, when the Project is to be carried out by a nongovernmental entity, as is the case here, "the Lead Agency shall be the public agency with the greatest responsibility for supervising or approving the project as a whole." Id.,§15051(b).

Approval of an EIR may be overturned when the wrong agency was designated the lead agency. For example, in *Planning and Conservation League v. Dep't of Water Resources* (200) 83 Cal.App 4th 892, the Court of Appeal ruled that a county water agency had been wrongfully designated lead agency for purposes of preparing an EIR because it did not have the principal responsibility for carrying out or approving implementation of the Project at issue. The City has primary responsibility over a critical land use decision concerning the facility and implementation of the Tanner Act. If DTSC cannot work with the City to coordinate the EIR process alongside initiating the Tanner community involvement process and issuing the CUP, DTSC should re-designate the City as the lead agency for purposes of approving the EIR.

Response 4-92

DTSC disagrees with the comment, generally. DTSC agrees that there may be numerous agencies that are involved in a hazardous waste facility project and that there may be permits issued by different agencies. However, DTSC approves and issues the hazardous waste facility permit pursuant to its authority under the Health and Safety Code and its implementing regulations.

The fact that DTSC assumed the Lead Agency role and the City of Los Angeles provided input into the environmental review of the draft EIR as a Responsible Agency, established the responsibilities of each entity under CEQA. DTSC is not aware of any requirement under CEQA that allows a shift in Lead Agency status after the NOP for the project has been circulated for agency review. It should be noted that through the Responsible Agency process, the City would provide DTSC with information it needs to have included in the draft EIR that would relate to impacts associated with any proposed land use decision affecting the ISOCI facility. In the absence of such a decision, the City would be required to determine it obligations as a Lead Agency under CEQA when such a decision is deemed necessary.

Comment No. 4-93

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

It is unclear whether the Health Risk assessment (HRA) measures the risks of the facility's proposed expanded operations. While the HRA describes the proposed operations, it does not distinguish between risks associated with current operations and those associated with proposed operations. For example, assumptions associated with volatile organic compound (VOC) sources, emissions and constituents of concern (COC) appear to have been based on current operation, without describing how the future expansion could result in increased emissions, especially from new unit operations such as steam injection associated with used oil processing, distillation associated with glycol processing, and mixing associated with wastewater treatment. Similarly, the HRA does not discuss the incremental cancer risk probabilities associated with the expanded operations.

Response 4-93

The Health Risk Assessment (HRA) evaluated the impacts associated with the facility as it would be permitted to operate under the Part B permit. The HRA did not calculate existing health risk and compare them to health risks associated with the ISOCI expansion. Rather, the HRA evaluated the health risks associated with all current and all proposed activities. For example, a number of new tanks are proposed under the Part B permit. The proposed new tanks do not currently exist; however, the emissions from those tanks, as well as all existing tanks, were included in the HRA. The emissions from facility operations are fully documented in Appendix C and D of the EIR and in the HRA and include all existing and “expanded” (proposed) operations

No steam injection or distillation activities are proposed at the ISOCI facility. The emissions associated with the wastewater treatment unit are included in the EIR (see Appendix D, Oil/Water Separator Emissions, DAF Emissions, and fugitive emission calculations).

Comment No. 4-94

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

For instance, proximity to oil storage facilities has been correlated with increased childhood cancers. A study published in the Journal of Epidemiology and Community: Health, *Hazard proximities of childhood cancers in Great Britain from 1953-80,* found that:

> MAIN RESULTS; *Relative excesses of leukaemias and of solid cancers were found near the following: (1) oil refineries, major oil storage installations, railside oil distribution terminals and factories making bitumen products; (2) motor car factories, coach builders, and car body repairers; (3) major users of petroleum products including manufacturers of solvents, paint sprayers, fiberglass factories, paint and varnish makers, plastics and detergent manufacturers, and galvanizers; (4) users of kilns and furnaces including steelworks, power stations, galvanizers, cement makers, brickworks, crematoria and aluminum, zinc, and iron/steel foundries; (5) airfields, railways, motorways and harbours……*
>
> *CONCLUSIONS: Childhood cancers are geographically associated with two main types of industrial atmospheric effluent namely: (1) petroleum derived volatiles and (2) kiln and furnace smoke and gases, and effluents from internal combustion engines.*

These severe impacts must be evaluated in the DEIR

Response 4-94

Comment 4-94 references health studies completed near a wide variety of industrial facilities, raising the concern about health effects associated with certain types of emissions and is not specific to the ISOCI facility.

The ISOCI facility has the potential to emit chemicals of concern that have been identified to cause various types of chronic and acute health effects, and some chemicals are considered to be carcinogens. A facility specific Health Risk Assessment (HRA) was prepared because of these concerns regarding potential health impacts. The HRA concluded that the cancer risk to the reasonable maximum exposed worker, reasonable maximum exposed resident and various sensitive receptor populations (schools, day care facilities, hospitals, and retirement homes) would be less than the significance criteria of 10 per million. Therefore, no significant carcinogenic health impacts are expected due to the continued operation (as described in the Part B Permit application) of the ISOCI facility.

The HRA further concluded that the potential chronic and acute health impacts associated with emissions due to the continued operation of the ISOCI facility would be much less than the significance criteria. Therefore, no significant adverse chronic or acute health impacts are expected due to continued operation (as described in the Part B Permit application) of the ISOCI facility. The potential impacts suggested in this comment have been evaluated in the Draft EIR and HRA and concluded to be less than significant.

Comment No. 4-95

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

In addition, the HRA fails to discuss potentially higher air emissions and risks associated with receiving, handling, and bulking numerous additional hazardous waste streams from multiple industries. The *DEIR* grossly generalizes the types of future wastes that the facility may manage and does not list or distinguish those additional COCS that likely will be contained in those generalized waste streams. Therefore, hundreds of additional VOC's and semi volatile organic compounds, such as large quantities of chlorinated solvents, phenols, pesticides, nitrogenous organics, and substituted benzenes could be managed in the future. It is likely that the HRA underestimates the types and quantities of VOCs and semivolatile organic compounds that could be emitted from the facility. ISOCI has not met its burden to demonstrate that the HRA measures the risks of the facility's proposed expanded operations.

Response 4-95

The comment that the HRA fails to discuss the potential emissions of numerous additional hazardous waste streams that may be allowed under the Part B permit is incorrect. The list of chemicals that would be allowed under the Part B permit were evaluated in the HRA Protocol, which identified all potentially permitted waste streams for chemicals of concern and included hundreds of chemicals. Those chemicals were evaluated for health effects data. The health data for each chemical was compared to the Office of Environmental Health Hazard Assessment (OEHHA), the U.S. EPA Integrated Risk Information System (IRIS), the U.S. EPA Health Effects Assessment Summary Tables (HEAST), and the CAPCOA HRA guidance lists to identify the potential health effects associated with each chemical of concern. OEHHA published date took precedence over IRIS and HEAST data. Chemicals of concern for which there was no health data were not included in the HRA. The chemicals of concern and

related health effects are provided in detail in the HRA Protocol. The results of the analysis are summarized in the HRA (Table 3).

Comment No. 4-96

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

If the HRA does not measure the risks of the facility's proposed expanded operations, The HRA states that it was prepared "using the methodology and assumptions outlined in the HRA Protocol and comments received on the Protocol from DTSC." The November 10, 1995 HRA Protocol describes the proposed operations at the facility, including a list of all Federal and state waste codes which the facility intends to accept. The HRA Protocol, however, does not discuss the current facility operations in comparison to the proposed operations. DTSC's January 10, 1996 comments on the HRA Protocol state that "it is not clear if the HRA is for the current facility operations, or if the RCRA Pt. B permit would allow an increase in capacity, types of wastes handled or process modifications. Any of these would need to be included in the HRA." Although DTSC was confused by the HRA Protocol, there is no indication that ISOCI responded to this concern or modified the HRA Protocol to expressly address risks associated with proposed operations, and the HRA remains confusing on this point. As a result, it is possible that the HRA did not model the risks from the proposed operations even though those operations are described in the HRA Protocol.

Response 4-96

See Response 4-93. The HRA included emissions for the existing facility operations as well as all proposed new equipment identified in the Part B Permit application. The emissions that would be generated by the potential increase in throughput, capacity, and waste streams were included in the HRA and dEIR.

Comment No. 4-97

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Even if the HRA purports to assess the risks associated with the facility's proposed expanded operations. it is flawed because it fails to address several potential failure

scenarios (pipe line breaks, hose disconnects during fluid transfer, tanks leaks, rail car derailment, and overheating "hot" processes), and fails to address the probable risk of hydrogen sulfide exposure resulting from the proposed wastewater treatment process. In addition, the HRA does not include concentration isopleth maps for the air dispersion modeling DTSC should make available these isopleth maps so the public can more easily understand the risks associated with the proposed operations.

Response 4-97

The potential impacts associated with potential releases (emergency events versus emissions associated with routine operations) are analyzed in the Draft EIR (see Subsection 3.5, pages 3-61 through 3-77 and Appendix F). Hydrogen sulfide emissions are associated with the refining of crude oil into petroleum products but not with the proposed wastewater treatment process at the ISOCI facility since petroleum processing would not occur at the site, only oil recycling would occur. Isopleth maps were not included because cancer risk was below 10 per million so that isopleth maps are not required.

Comment No. 4-98

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The HRA fails to evaluate the dermal exposure pathway for workers at the facility. *See* DEIR 3-41. Due to the presence of contaminated soil at the facility, *see* DEIR 3-50, the HRA should evaluate human health effects from dermal contact with wastes, treatment reagents such as sodium hydroxide and chlorine, and recycled products. It is completely unreasonable to assume that workers will not be exposed due to dermal contact and incidental ingestion (in addition to inhalation) at a facility that does nothing but treat and handle hazardous wastes

Response 4-98

The Human Health Risk Assessment Protocol (HHRAP) has eliminated the dermal absorption pathway from consideration because exposure via this pathway does not contribute a substantial risk to exposed individuals (U.S. EPA, 1998). Workers at ISOCI are specifically prevented from dermal exposure via protective clothing and on-the-job training.

Comment No. 4-99

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Finally, the HRA does not assess the Project's impacts on a large planned mixed-use redevelopment of the 23.5-acre Sears Roebuck & Co. retail store and warehouse property located near the facility. (*See* DEIR, 3-89)

Response 4-99

See Response 2-9 regarding health risks at the Sears Tower.

Comment No. 4-100

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

For the foregoing reasons, DTSC should correct the deficiencies in the Part B permit, DEIR and HRA, recirculate all documents and make them accessible to the public online and/or by request with Spanish translation. Further, this process should be coordinated with the City's Tanner proceedings. CBE hereby requests timely notice about all further hearings and proceedings regarding this project.

Response 4-100

As discussed in the above responses, no deficiencies were identified that would require recirculation of the Part B, HRA or dEIR. CBE has been and will continue to be included on the notification list for the proposed project.

Comment No. 5-1

The following is a written comment from Sal Martinez:

What is the toxic carrier company safety driving record for Industrial Service Oil?

Response 5-1

Industrial Service Oil Company, Inc. (ISOCI) is not a registered hazardous waste transporter, as defined pursuant to California Code of Regulations, title 22, 66260.10. This permit does not authorize ISOCI to transport hazardous waste in California. Instead, ISOCI uses registered hazardous waste transporter companies to transport waste to and from its facility. Hazardous waste transporters must be registered with DTSC and comply with all applicable local, state, and federal laws and regulations. ISOCI is not required to provide DTSC with a list of transporters or the driving records of such transporters. However, the commentor may contact ISOCI and ask which transporters it uses and then contact those transporters to obtain their safety driving record.

Comment No. 5-2

The following is a written comment from Sal Martinez:

What routes will they use from Point A to Point B?

Response 5-2

DTSC does not regulate the routes that carriers use to transport hazardous waste. However, hazardous waste transportation is required to be carried out via the most direct route, using State or interstate highways whenever possible. The specific requirements for hazardous waste transporters regarding routes may be found in the California Vehicle Code, section 31303. The transportation routes utilized by ISOCI are shown in Figure 3.10-1 and discussed in Section 3.10.1.2 of the dEIR.

Comment No. 5-3

The following is a written comment from Sal Martinez:

Other than Police and Fire, what safety precautions will be placed on the carriers driving thru (sic) Boyle Heights?

Response 5-3

Please see Response to Comments No. 5-1 and No. 5-2. Also please note that the Department Of Transportation has jurisdiction over carriers during the course of transportation.

Comment No. 5-4

The following is a written comment from Sal Martinez:

Is the toxic waste cancerous & can it go airborne if not properly store and is there on site "DTSC" overseear (sic)?

Response 5-4

Please see Responses 2-9, 3-3, and 14-25 regarding health risks associated with the proposed ISOCI project. Also, please see the dEIR Section 3.5, Hazards. Mitigation measures are expected to reduce the hazard impacts to less than significant. An onsite release at the ISOCI facility would not be expected to require evacuation of any individuals in the surrounding community.

Consistent with its oversight of all permitted facilities, DTSC will regulate the ISOCI facility through an operating permit and will conduct inspections to ensure that ISOCI is in compliance with the terms and conditions of its permit as well as statutory and regulatory requirements.

Comment No. 5-5

The following is a written comment from Sal Martinez:

I'm against this Permit simply because of the Health Risk Assessment. I'm not ready to place the lives of the children from nearby Dena Elementary (sic) or Primary to a future accident from this 100 truck a day or gallons blowing up at Industrial Service Oil.

Response 5-5

Please see Responses 2-9, 5-4, and 14-25 regarding health risks associated with the proposed ISOCI project. Also, please see the dEIR Section 3.5, Hazards. Mitigation

measures are expected to reduce the hazard impacts to less than significant. An on-site release at the ISOCI facility would not be expected to require evacuation of any individuals in the surrounding community.

Comment No. 6-1

The following is a written comment from Dennis A. Roach

I represent 2550 Olympic, LLC ("the LLC"), the owner of property close to Industrial Services Oil Company ("ISOC"). It has recently come to my attention that the Department of Toxic Substances Control ("DTSC") is proposing to issue a permit to ISOC which would radically expand their operations. The proposed permit is accompanied by a Draft Environmental Impact Report (DEIR).

I have concerns about the proposed project. From what I have heard, this is a used oil recycler which now proposes to take hundreds of federally hazardous wastes, including cyanides and other dangerous chemicals. It also proposes to store about 250,000 gallons of this waste in rail cars for up to a year at a time. From my understanding of these matters, wastes like these are usually stored in tanks which have protection against earthquakes and spills and which have to be inspected and certified every few years. Having 10 rail cars sitting at the facility with these dangerous toxic chemicals, subject to vandalism, terrorism, or natural disaster, seems to me to be a threat to my property and that of other nearby property owners, businesses, and residents.
Response 6-1

See Responses 4-4, 4-8 through 4-11, and 4-67 regarding hazards related to storage of hazardous materials in railcars.

Comment No. 6-2

The following is a written comment from Dennis A. Roach

The Notice that was sent out about this facility said nothing about the hundreds of dangerous chemicals they are going to take or about the lack of protective storage they are considering. The so-called Health Risk Assessment that accompanied the permit and DEIR did not even consider the risks of these chemicals or any upset conditions. Certainly we all know that rail accidents, fires, leaks, spills, and earthquakes occur, and any assessment of risks must include those issues.

Response 6-2

Please see Response to Comment 4-4 regarding the Public Notice.

The dEIR and Permit provide an accurate and more detailed description of the proposed project, additional waste codes that may be accepted by the facility, the amount of hazardous waste that may be stored, and the location of the storage facilities, including the railcar storage.

The potential impacts associated with potential releases (emergency events versus emissions associated with routine operations) are analyzed in the dEIR (see Subsection 3.5, pages 3-61 through 3-77 and Appendix F). The HRA evaluates the impacts of emissions associated with routine operations.

Comment No. 6-3

The following is a written comment from Dennis A. Roach

In asking around the area and trying to make sense of this, I have found out that the original notices about this project were ten (!) years ago, that the project has changed a great deal since then, and that there has been little or no outreach to surrounding property owners of the community. The DEIR states that there has to be "local assessment committee" under the "Tanner process," but none has been established. The Tanner law says that this committee is supposed to get assistance in reviewing the environmental documents, but DTSC seems to be proceeding ahead with both the permit and EIR without even waiting for the formation of the committee, much less listening to any concerns it may have. I realize that the committee's task under the law is principally to advise the City about the issuance of a land use permit for the facility, but it is hard for me to believe that DTSC would not also benefit from having an informed public comment to the department on these same issues. I also find it very suspicious that the department is trying to proceed to issue its permit before the public process of the committee even starts.

Response 6-3

See Response 2-4 regarding the Notice of Preparation (NOP). See Response 1-3 regarding DTSC's public outreach program. See Responses 2-2 and 4-90 through 4-92 regarding the Tanner process.

Comment No. 6-4

The following is a written comment from Dennis A. Roach

Your comment period ends on February 13th. I hereby request that DTSC take action to correct the mistakes that have been made. First I ask that you provide proper Notice to me and others about the true nature of the proposed activities, and then hold meetings near the company to discuss the project. Second, I ask that you defer any DTSC action until formation of a proper local assessment committee, so that property owners, businesses, and nearby residential neighbors of the facility can come together to discuss this proposal. I would also appreciate your rethinking the propriety of allowing some of these dangerous activities in what is becoming more and more a residential area. At the very least you need to provide another 90 days extension so that those of us who are concerned about the project can look into it further and provide you with appropriate detailed comments.

Response 6-4

See Responses to Comments 1-1 and 1-3 regarding the extension of the public comment period. See Responses 4-90, 4-91, and 4-92 regarding the formation of a local assessment committee.

Comment No. 7-1

The following is a written comment from Luis Pozzeban:

Are the aboveground tanks double bottomed and if not how are the tanks monitored for releases?

Response 7-1

All the tanks at the ISOCI facility are single bottomed tanks. All ISOCI tanks are required to comply with California Code of Regulations, title 22, section 66264.193 for secondary containment, which are designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater, or surface water at any time during the use of the tanks. The spill containment system must be capable of detecting and collecting releases and accumulated liquids until the collected material is removed. The spill containment system is also designed to contain

precipitation from a 24-hour, 25-year storm event plus the greater of 10 percent of the aggregate volume of all tanks or 100 percent of the capacity of the largest tank within its boundary, whichever is greater. ISOCI is required to inspect tanks pursuant to California Code of Regulations, title 22, section 66264.195.

Comment No. 7-2

The following is a written comment from Luis Pozzeban:

With expansion of capacity, were fire suppression capabilities improved?

Response 7-2

The ISOCI facility has been inspected by the Los Angeles City Fire Department (LACFD). In 2000, LACFD required that ISOCI install a fire hydrant, which has been installed. It is DTSC's understanding that tank placements, tank spacing, and fire lanes at the ISOCI facility comply with the City of Los Angeles Fire Code and the Uniform Fire Code. The facility also must comply with any conditional use permit that may be issued by the City of Los Angeles.

Comment No. 7-3

The following is a written comment from Luis Pozzeban:

What is the compliance history of the facility?

Response 7-3

The compliance history of the facility is listed on pages 2-29 and 2-30 of the dEIR and on pages 2-29 and 2-30 of the final EIR. The final EIR contains updated information on the facility's compliance history.

Comment No. 8

The following is a written comment received from Fabric & Fabric:

Please have them move as soon as possible since we already have a enough pollution in this area from the cement & the asphalt company and we are already in the cancer risk with them.

Response 8

Please see Responses to Comments 3-2 and 4-56 regarding the Health Risk Assessment

The Department understands and appreciates the concerns raised regarding cancer risks. DTSC is responsible for the oversight of the State's hazardous waste management program to protect public health and the environment. A Health Risk Assessment (HRA) is required before a permit may be issued to a treatment, storage and/or disposal facility. This assessment provides the basis for the decisions made to protect public health against significant risks. It also provides information about the nature and magnitude of the potential health risks associated with the operations of the facility. An HRA has been completed for this project which includes an evaluation of potential cancer risk and non-cancer health effects associated with all possible air emissions from the facility as a result of the facility's permitted operations. The results of this HRA show minimal risk associated with this project and are well within state and local standards for Health Risk Assessments. DTSC has no regulatory authority as to decisions made regarding the location of hazardous waste facilities. The authority to establish zoning and land uses is pursuant to the City of Los Angeles's authority under California land use law and its implementing regulations.

Comment No. 9

The following is a written comment received from Ines Khohan:

Please remove them as soon as possible since we already have a lot of pollution from the cement & asphalt company & the trash recycle down the block on Washington.

Response 9

Please see Response to Comment No. 8.

Comment No. 10

The following is a written comment from Norberto Sanchez:

Mr. Sanchez requests to be removed from the facility mailing list.

Response 10

The Department notes Mr. Sanchez' comment and will remove his name from the facility mailing list.

Comment No. 11

The following is a written comment from Dependable Highway Express:

Currently on mailing list. Please keep us on the mailing list.

Response 11

Comment noted. Dependable Highway Express will remain on the facility mailing list.

Comment No. 12-1

The following is a written comment from Los Angeles City Councilman Jose Huizar:

I am writing to request that your office extend the current public comment period for the abovementioned Draft Environmental Impact Report (DEIR) far an additional 60 days. As of now, the current public comment period is scheduled to end February 13, 2006. Section 15105 of the California Environmental Quality Act (CEQA) allows for the extension of a public comment period by 60 days in the event of unusual circumstances. In addition, I request that DTSC conduct additional public outreach meetings to properly inform the residents about this project.

Response 12-1

Please see Response to Comments 1-1 through 1-5 regarding public notice.

Comment No. 12-2

The following is a written comment from Los Angeles City Councilman Jose Huizar:

I have reviewed the summary of public participation activities conducted by DTSC and believe additional Outreach is needed to adequately inform residents about this project. As you may be aware, the residents of Boyle Heights are very active and engaged in the community. I believed that if the details of this project would have been properly communicated to them, many more would have participated in the public comment meetings.

Response 12-2

Please see response to comment 1-3.

Comment No. 13-1

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Considering the current public comment period, it is possible that DTSC may revise the *Draft Permit* based on public comments, the following comments, and new information received after December 15, 2005. ISOCI and EPC reserve the right to provide additional comments in the future based on subsequent permit revisions by DTSC as well as in response to public comments received. ISOCI requests that such future comments be addressed by DTSC prior to final permit issuance.

Response 13-1

DTSC will not review or consider, as part of its decision-making process, any comments submitted by any persons after the close of the public comment period. Please note that California Code of Regulations, title 22, section 66271.18 (Section 66271.18) states, in part, "…[a]ny person who filed comments on that draft permit or participated in the public hearing may petition the Department to review any condition of the permit decision…" This appeal process is available to all persons who meet the conditions of Section 66271.18, including the commentor.

Comment No. 13-2

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

ISOCI and EPC reserve the right to provide further comments to correct errors, omissions, and/or inconsistencies with federal and California regulatory requirements. ISOCI requests that such future corrections be addressed by DTSC prior to final permit issuance. To minimize corrections after final permit issuance, ISOCI requests that DTSC provide a "final draft" permit for ISOCI's review.

Response 13-2

Please see response to comment 13-1.

Comment No. 13-3

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

The DTSC cover letter that accompanies the *Draft Permit* has the incorrect USEPA facility ID number for ISOCI. This December 15, 2005 letter from Mr. Allan Plaza of DTSC indicates a USEPA facility ID number of CAD 980 887 418. The correct number for the Facility is CAD 099 452 708. Please correct the USEPA facility ID number in the *Draft Permit* and any other pertinent documents.

Response 13-3

Comment noted. This is a typographical error and has been corrected.

Comment No. 13-4

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

The DTSC cover letter and *Draft Permit* title page state that the Part B permit application is dated September 2001. In actuality, the Part B permit application submitted by ISOCI is dated September 2000. Please correct this discrepancy in the cover letter, title page, and any other pertinent documents.

Response 13-4

Comment noted. This is a typographical error and has been corrected.

Comment No. 13-5

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

The *Draft Permit* title page states that the "Attachment A" consists of 55 pages and Appendix A. Our copy of the *Draft Permit* contains 58 pages (excluding the cover page) and 2 pages in Appendix A. Please correct this discrepancy in the final permit upon issuance.

Response 13-5

Comment noted. This is a typographical error and has been corrected.

Comment No. 13-6

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

The *Draft Permit* table of contents has incorrect page number references for all sections. In addition, page 3 of the *Draft Permit is* blank. Please correct these discrepancies in the final permit upon issuance.

Response 13-6

Comment noted. This is a typographical error and has been corrected.

Comment No. 13-7

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

The *Draft Permit* table of contents identifies Part II, Section 6 as "Facility Size and Type for Fee Services," and Part V as "Special Conditions Which Applies to the Entire

Facility's Storage and/or Treatment Units(s)." The actual sections have different titles. Please correct these discrepancies in the final permit upon issuance.

Response 13-7

Comment noted. This is a typographical error and has been corrected.

Comment No. 13-8

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Used Oil Blending and Certification on page *7* states that inbound shipments of used oil are currently fingerprint tested before they are commingled in designated receiving tanks. To clarify, please note that the Facility conducts fingerprint testing for polychlorinated biphenyl (PCBs) on used oil from the receiving tanks **after the used oil is commingled.** This is the procedure that DTSC has authorized for ISOCI to reduce the potential risk associated with idle, used oil trucks waiting at the Facility until PCB analytical results are available. Please note that, in accordance with the current and proposed Waste Analysis Plans for the Facility, ISOCI retains individual samples from each incoming used oil load until PCB analyses are completed. ISOCI requests that this section be revised accordingly.

Response 13-8

As stated in the Part B Permit application, Section III, page 6 of 24, item 7, "At a minimum, one sample will be obtained for fingerprinting analysis from each bulk load of waste received by the facility. For containerized waste, a minimum of 10 percent of the total number of containers of each type of waste received from each generator will be sampled for fingerprint analysis. Composite samples will not be permitted for statistically representative sampling." Table III-4 of the Part B Permit application, titled, "Testing Parameters by Waste Stream" indicates that wastes destined for the Oil Treatment System, the Glycol Recovery System (if > 5% oil), and the Wastewater Treatment System (if > 10% oil) will be fingerprint tested for PCBs. These conditions have been incorporated into the draft permit and final permit. If ISOCI wants to modify the Waste Analysis Plan (WAP), it must submit a permit modification request after the effective date of the final permit. The modification request must provide the procedures for PCB analyses.

Comment No. 13-9

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Wastewater Treatment System on page *7* states that the system would treat on-site generated wastewater from the oil ultra filtration process within the used oil treatment unit and emissions control system. As described in Exhibit IV-2, *Process Description, of* ISOCI's Part B permit application, the ultrafiltration process is not included with the used oil treatment unit and the emissions control system. ISOCI requests that this section be revised to state, "The wastewater treatment system would treat on-site generated wastewater from the Oil Treatment System, Glycol Recovery System, and Waste Solids Treatment Unit, as well as any wastewater received from off-site sources."

Response 13-9

The draft Part B permit will be revised to more accurately describe the Wastewater Treatment unit. The new text reads: “The wastewater treatment system shall treat on-site generated wastewater from the Oil Treatment System, Glycol Recovery System, and the Waste Solids Treatment Unit, and any off-site generated wastes listed on page 24 of this permit. The treatment includes heavy metal removal and neutralization of water before discharge to POTW under a permit. The system capacity is 84,600 gallons/day.” The word “shall” has replaced the word “would” in the text suggested above. The word “and” has replaced the phrase “as well as” in the text suggested above.

Comment No. 13-10

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Used Oil Treatment on page 7 states that the system must be modified to include an ultrafiltration unit, water separation unit, and a plate/frame filter press as well as separating water and solids from the waste stream through use of a series of filters. As described in Exhibit IV-2, *Process Description,* of ISOCI's Part B permit application, the used oil treatment system does not include an ultrafiltration unit, a water separation unit, or a plate/frame filter press. ISOCI request that this section state the following: "The current used oil treatment system maybe modified to include a series of storage tanks, which may employ heat and chemicals to produce recycled oil. The system shall be able to treat up to 228,600 gallons/day of waste."

Response 13-10

The final permit will be revised to more accurately describe the Used Oil Treatment System. The new text reads: “The current used oil treatment system may be modified to include a series of storage tanks, filtration units, and separation tanks which shall employ heat and chemicals to produce recycled oil as described in section IV (Oil Treatment System) of the Part B permit application. The system shall be able to treat up to 228,600 gallons/day of waste.”

Comment No. 13-11

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Activity Description on page 17 does not include storage of empty containers and containers storing reagent chemicals/off-specification materials. This reference was in the August 2005 version of the permit, and ISOCI requests that the following statement be added: "Empty containers and containers storing reagent chemicals/off-specification materials may be stored in CMA-7."

Response 13-11

The exact text that was removed from the August 2005 version of the permit is as follows: “Empty containers and containers storing reagent chemicals are stored.” This text was removed because it was unclear. The statement: “Empty containers and containers storing reagent chemicals / off-specification materials may be stored in CMA-7” will be added in its place.

Comment No. 13-12

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Physical Description on page 18 states that sumps shall be emptied daily so as not to act as a storage area. ISOCI requests deletion of this statement as it is redundant with *Special Condition 2(h)* on page 56.

Response 13-12

DTSC disagrees with the comment that this section is redundant and has determined that it is appropriate to retain both sections as written.

Comment No. 13-13

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Activity Description on page 24, under the heading "Oil-Water Separator," states that recovered oil must be collected in a 55-gallon drum and stored next to the OWS for a maximum of 90 days before being sent to the Oil Treatment System. ISOCI requests that the statement be revised as follows: "Recovered oil shall be collected in a 55-gallon drum and stored/treated as waste oil in accordance with the provisions of this permit."

Response 13-13

DTSC will change the wording on page 24 of the draft permit to read: “Recovered oil shall be collected in a 55-gallon drum and stored next to the OWS for a maximum of 90 days prior to: 1) being sent to the Oil Treatment System for further treatment; **or** 2) being sent to container management unit CMA-1 or to container management unit CMA-7 for storage as hazardous waste.”

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Comment No. 13-14

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Physical Description on page 26 and *Unit Specific Conditions* on page 28 state that the interior of all steel tanks shall be epoxy-coated to prevent corrosion. As previously requested in EPC's November 30, 2005 letter to Mr. Allan Plaza, ISOCI requests that these conditions be rephrased as follows: "The interior of tanks in this system will be epoxy-coated if necessary to resist corrosion." Not all tanks will be epoxy-coated, only those that are subject to potential corrosion due to material compatibility concerns.

Response 13-14

Comment noted. The final permit has been revised to state the following: The interior of the tanks in this system will be epoxy-coated to resist corrosion if, based on the tank assessments described in Part V.(1) a of this permit, the engineer certifying the tank assessment reports recommends epoxy coating of the interior of the tanks to resist corrosion."

Comment No. 13-15

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Activity Description on page 30 does not differentiate between the current and proposed oil treatment systems. As previously requested in EPC's November 30, 2005 letter to Mr. Allan Plaza, ISOCI requests that this section be revised to reflect the current oil treatment operations, with the proposed operations described separately. In addition, ISOCI requests that the following statement be incorporated for the current operations: "After inbound shipments are fingerprint tested, they are commingled in designated receiving Tanks 21, 22, 23, 24, 25, 26, or 27. Subsequently, the contents of the receiving tank are tested for PCB's prior to transfer and/or treatment. From the receiving tanks, the used oil is transferred to designated storage Tanks 100, 200, 300, 400, 500, 600, or 700, where the oil is tested to certify that is meets the standards for recycled oil and the contents are no longer hazardous."

Response 13-15

Please see response 13-8. Again, please note that the Part B application Section III, page 6 of 24, item 7 states, "At a minimum, one sample will be obtained for fingerprinting analysis from each bulk load of waste received by the facility. For containerized waste, a minimum of 10 percent of the total number of containers of each type of waste received from each generator will be sampled for fingerprint analysis. Composite samples will not be permitted for statistically representative sampling." Table III-4 of the Part B Permit application, titled, "Testing Parameters by Waste Stream" indicates that wastes destined for the Oil Treatment System, the Glycol Recovery System (if > 5% oil), and the Wastewater Treatment System (if > 10% oil) will be fingerprint tested for PCBs. These conditions have been incorporated into the draft permit and final permit. If ISOCI wants to modify the Waste Analysis Plan (WAP), it

must submit a permit modification request after the effective date of the final permit. The modification request must provide the procedures for PCB analyses. Once the final Permit is in effect, the proposed Used Oil Treatment System will be the authorized unit to treat used oil as described in the permit. Because this comment, and the request contained within, is in direct conflict with the portions of the permit stated above, and with the permit application, DTSC denies with this request.

Comment No. 13-16

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Activity Description on page 31, under the heading "Heat Treatment," states, "The treatment tanks 21, 22, 23, 24, 25, 26, and 27 are heated to 180°F by circulating the oil contents through direct gas-fired heater." ISOCI requests that the statement be revised as follows: "The treatment tanks 21, 22, 23, 24, 25, 26, and 27 are typically heated to 180°F by circulating the oil contents through a direct gas-fired heater." Depending on used oil characteristics, the temperature requirement for phase separation may vary, but it is typically 180°F.

Response 13-16

DTSC has determined that the statement is appropriate as written and will not be modified. However, if ISOCI plans to vary the temperature of its Oil Treatment System, ISOCI must specify a temperature range for the gas-fired heater in the Oil Treatment System. This may be accomplished through a permit modification.

Comment No. 13-17

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Unit Specific Conditions on page 32 is blank. ISOCI requests the following condition: "PCB testing, using EPA-specified testing methods, shall be performed for incoming loads that have accumulated in a waste receiving tank prior to treatment." Please see Comment 8 above for additional information.

Response 13-17

DTSC has determined that there are no specific conditions required for this unit. As a result, this section will be modified to read “none Please see response to comment 13-15.

Comment No. 13-18

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Operating Status on page 39 does not differentiate between the current storage and proposed treatment systems. ISOCI requests that the following statement be added: "Waste antifreeze and used antifreeze storage are currently authorized under the Facility's Interim Status Document."

Response 13-18

Once the permit is issued and becomes effective, it supersedes the Interim Status Document. California Code of Regulations, title 22, Section 66270.73(a) states: “Interim status terminates when final administrative disposition of a permit application is made.” As a result, the proposed language regarding authorization through the Interim Status Document will not be included in the permit.

Comment No. 13-19

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Activity Description on page 39 does not differentiate between the current storage and proposed treatment systems. ISOCI requests that at following statement be included, "Waste antifreeze and used antifreeze are currently received from off-site sources for storage in Tanks 47 and 50. From Tanks 47 and 50, the waste antifreeze and used antifreeze are shipped off-site for treatment."

Response 13-19

DTSC agrees with this comment and the final permit will be modified to reflect the proposed language.

Comment No. 13-20

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Unit Specific Conditions on page 43 states that the interior of all steel tanks in the GRS shall be epoxy-coated. As previously requested in EPC's November 30, 2005 letter to Mr. Allan Plaza, ISOCI requests that these conditions be rephrased as follows: "The interior of tanks in this system will be epoxy-coated if necessary to resist corrosion." Not all tanks will be epoxy-coated, only those that are subject to potential corrosion due to material compatibility concerns.

Response 13-20

Please see Response to Comment 13-14. The final permit has been revised to state the following: The interior of the tanks in this system will be epoxy-coated to resist corrosion if, based on the tank assessments described in Part V.(1) a of this permit, the engineer certifying the tank assessment reports recommends epoxy coating of the interior of the tanks to resist corrosion."

Comment No. 13-21

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Physical Description on page 46 states that sumps shall be emptied on a daily basis so as not to serve as additional storage. ISOCI requests deletion of this statement as it is redundant with *Special Condition 2(h)* on page 56.

Response 13--21

Please see response to comment 13-12.

Comment No. 13-22

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Unit Specific Conditions on page 49 includes the following statements: "RCRA waste shall not be directly transferred from truck to rail car. Only blended RCRA waste from RCRA waste tanks onsite may be transferred to rail car." ISOCI requests that these conditions be deleted. It contradicts ISOCI's proposed operations, as indicated on page 8 of this *Draft Permit,* by unduly restricting the Facility's ability to transport RCRA waste via railcar.

Response 13-22

The statement: “RCRA waste shall not be directly transferred from truck to rail car. Only blended RCRA waste from RCRA waste tanks onsite may be transferred to rail car.” has been deleted. ISOCI will be authorized to transfer RCRA and non-RCRA waste directly from truck to rail car.

Comment No. 13-23

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Special Condition 1(b) on page 55 states that the closure cost estimate (CCE) is $1,583,391.00 for existing conditions and site investigation costs. *Special Condition* 1(d) on page 55 states that the CCF for proposed operations is an additional $1,595,272.00. ISOCI disagrees with these CCE amounts, as discussed in EPC's October 31, 2005 letter to Mr. Allan Plaza. On behalf of ISOCI, EPC submitted CCE detail for existing and proposed operations on August 20, 2004. The EPC estimates were based on actual labor, material, analytical, supply, and engineering quotes that were obtained by ISOCI as the owner and operator of the Facility. 22 CCR 66264.142(a)(2) states that the CCE “shall be based on the costs to owner or operator of hiring a third party to close the facility.” This is precisely how EPC’s estimates were developed.

During our meeting with DTSC on October 31, 2005, the CCE was discussed and it was determined that the primary difference between DTSC and EPC estimates was associated with labor costs. DTSC’s estimates were based on

default labor rates and level of effort per the CostPro software program, whereas EPC's estimates were based on an actual quote from a third-party contractor. It is our understanding that DTSC has reverted back to the previous RACER software program for other facilities where the CostPro software was questioned.

ISOCI believes that EPC's CCE is the appropriate financial assurance amount because it is based on actual quotes obtained in accordance with 22 CCR 66264.142(a)(2), and also because it is consistent with previous DTSC estimates. Cost estimates based on field visits and vendor quotes are always more reliable than estimation software that is not site-specific.

Therefore, ISOCI requests further dialogue with DTSC to refine the CCE for existing and proposed operations. With respect to the CCE portion for site investigation activities, this is not pertinent and should be deleted because, as you are aware, ISOCI has already started the RFI site investigation activities.

Response 13-23

DTSC denies this request. DTSC has determined the Closure Cost Estimate (CCE) values in the draft permit to be representative of the dollar amount that will need to be secured in order to facilitate closure of the facility. The DTSC CCE values were calculated in compliance with California Code of Regulations, title 22, Section 66264.142(a). The CCE for site investigation activities is pertinent and is a regulatory requirement pursuant to California Code of Regulations, title 22, Section 66264.101(b).

Comment No. 13-24

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Special Condition 2(b)(iii) on page 56 states that information sheets and waste profile forms shall include results for PCBs for all incoming loads. As discussed in Comments 8 and 15 above, ISOCI conducts PCB analyses on used oil after it is pumped into receiving tanks, and not individually for each incoming load. ISOCI requests that this condition be revised accordingly. Note that ISOCI retains samples from each load until PCB results for commingled used oil are satisfactory.

Response 13-24

Please see response to comment 13-8. Special Condition 2(b)(iii) (Special Condition 2b (I) in the final permit) will remain as written.

Comment No. 13-25

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Special Condition 2(e) on page 56 states that all waste profiles shall be analyzed by a certified laboratory on an annual basis. As stated in EPC's November 30, 2005 letter to Mr. Allan Plaza, ISOCI believes that the annual requirement for analyses is unnecessarily burdensome and costly to generators. ISOCI proposes the condition be revised to require review of all waste profiles on an annual basis, and for analyses where there is a concern or knowledge of any changes in the waste stream or the underlying waste-generating processes.

Response 13-25

DTSC denies this request. The EPA Guidance Manual titled, "Waste Analysis at Facilities that Generate, Treat, Store, and Dispose of Hazardous Waste" states that "Although there are no required time intervals for re-evaluating wastes, you must develop a schedule for re-evaluating the waste on a regular basis." A schedule for re-evaluating the waste on a regular basis was not provided in the Part B permit application. DTSC believes that re-evaluating waste on an annual basis is essential for determining the wastes that will be accepted at ISOCI and is not unnecessarily burdensome and costly to generators.

Comment No. 13-26

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Special Condition 2(g) on page 56 states that the presumption that a waste is a halogenated hazardous waste cannot be rebutted based on generator analytical results or knowledge, and that the Facility can only rebut the presumption based on ISOCI's analytical testing results. ISOCI believes that this is not consistent with federal and California regulations at 40 CFR 262.11 and 22 CCR 66262.11, respectively that

establish generator knowledge as an acceptable means of characterizing a waste.

Response 13-26

DTSC has re-evaluated this permit condition that "the presumption that a waste is a halogenated hazardous waste cannot be rebutted based on generator analytical results or knowledge, and that the Facility can only rebut the presumption based on ISOCI's analytical testing results" to rebut the rebuttable presumption that used oil does not contain RCRA hazardous halogens. DTSC is willing to add other options that would allow the Permittee in certain circumstances to use documentation from generators and test results from transporters to rebut the rebuttable presumption that used oil contains RCRA hazardous halogens, provided that specific requirements are met. DTSC believes the following revised procedures, which have been incorporated into Special Condition 2g (Special Condition 2h in the final permit) are consistent with California Code of Regulations, title 22, section 66279.10(b). Special Condition 2g (Special Condition 2h in the final permit) now reads as follows below.

(I) When the Permittee has determined that a used oil shipment contains more than 1,000 ppm total halogens, the Permittee: (i) shall reject the load pursuant to Health and Safety Code section 25160.6 and any other applicable requirements; or (ii) may seek to demonstrate that the rebuttable presumption under California Code of Regulations, title 22, section 66279.10(a) should be rebutted pursuant to California Code of Regulations, title 22, section 66279.10 (b). If the Permittee seeks to rebut the presumption by demonstrating that the used oil does not in fact contain halogenated hazardous waste pursuant to California Code of Regulations, title 22, section 66279.10 (b), (b) (1) and (2), the Permittee shall follow the applicable procedures in (c) below.

(II) The Permittee may only accept a used oil shipment containing more than 1,000 ppm total halogens and manage it as used oil when the rebuttable presumption has been rebutted pursuant to California Code of Regulations, title 22, section 66279.10 (b), (b)(1) and (2) using the procedures in condition (c) below or based on California Code of Regulations, section 66279.10 (b) (3), (4), or (5).

(III) Options for Rebutting the Rebuttable Presumption Pursuant to California Code of Regulations, title 22, section 66279.10 (b), (b) (1) and (2).

Option 1. For Used Oil Received From A Single Generator

(A) When the Generator Provides A Waste Profile Sheet

The Permittee may rebut the rebuttable presumption pursuant to California Code of Regulations, title 22, section 66279.10 (b), (b)(1) and (2) only through analytical testing in accordance with the test methods specified in California Code of Regulations, title 22, section 66279.90(b) or by complying with all of the following conditions, which are the only other means of demonstrating that the used oil does not contain halogenated hazardous waste for purposes of California Code of Regulations, title 22, section 66279.10 (b), (b)(1) and (2) and this Permit.

(1) The Permittee shall obtain from the transporter a copy of the Generator's Waste Profile Worksheet (GWPW), attached to the manifest;

(2) The Permittee shall review this documentation and confirm in the operating log that the GWPW: i) is less than 365 days old; (ii) is based on a representative sample of the waste; and iii) was analyzed by a laboratory certified in accordance with the Environmental Laboratory Accreditation Program by using the test methods specified in California Code of Regulations, title 22, section 66279.90(b);

(3) The Permittee shall obtain written confirmation from the generator that the generator repeats the waste testing and certification process outlined in condition (2) above at least every 365 days;

(4) The Permittee shall review the documentation discussed above and enter into the operating log the reason that the rebuttable presumption can be rebutted pursuant to California Code of Regulations, title 22, section 66279.10 (b), (b)(1) and (2);

(5) The Permittee shall confirm in the operating log that the GWPW is on file at the Permittee's facility; and

(6) The Permittee shall maintain copies of all documentation required in conditions (1) through (5) above at the Facility;

(B) - When the Generator Does Not Provide A Waste Profile Sheet.

The Permittee may rebut the presumption only through analytical testing in accordance with the test methods specified in California Code of Regulations, title 22, section 66279.90(b) accompanied by a determination that the rebuttable presumption is rebutted pursuant to California Code of Regulations, title 22, section 66279.10 (b), (b)(1) and (2).

Option 2. For Used Oil Received From

Multiple Generators (Consolidated Loads).

(A) When the transporter provides fingerprint test data for each generator using EPA Test Method 9077.

The Permittee may only rebut the rebuttable presumption through analytical testing in accordance with the test methods specified in California Code of Regulations, title 22, section 66279.90(b) or by demonstrating that the used oil does not contain halogenated hazardous waste by satisfying the conditions in (1) through (3) below.

(1) The Permittee obtains the fingerprint test data referenced in (A) above from the transporter; and

(2) For any generator whose used oil has a concentration that exceeds 1000 ppm total halogens, the Permittee receives and has on file proper documentation and follows the procedures in Option 1(A) above; and

(3) The fingerprint test data demonstrates that the used oil collected from all the other generators has concentrations less than 1000 ppm total halogens.

(B) When the transporter cannot provide fingerprint data for each generator using EPA Test Method 9077, but the transporter has collected individual samples from each generator and retained the samples along with the load.

The Permittee may rebut the rebuttable presumption only through analytical testing in accordance with the test methods specified in California Code of Regulations, title 22, section 66279.90(b) or by demonstrating that the used oil does not contain halogenated hazardous waste by satisfying the conditions in (1) and (2) below.

(1) The Permittee obtains the individual retained samples from the transporter and tests the retained samples using EPA Test Method 9077; and

(2) For any generator whose used oil has a concentration that exceeds 1000 ppm total halogens, the Permittee receives and has on file proper documentation and follows the procedures in Option 1(A) above.

(C) For consolidated loads when the transporter cannot provide fingerprint data or retained samples as discussed in Options 2(A) and 2(B) above.

The Permittee may rebut the rebuttable presumption only through analytical testing in accordance with the test methods specified in California Code of Regulations, title 22, section 66279.90(b) accompanied by a determination that the rebuttable presumption is rebutted pursuant to California Code of Regulations, title 22, section 66279.10 (b), (b)(1) and (2).

Comment No. 13-27

The following is a written comment from EP Consultants on behalf of Industrial Service Oil Company, Inc.:

Appendix A contains Figure IV-41B in two sheets. The two figures in EPC's copy of the *Draft Permit* are truncated at the right margin. Please ensure that the complete figures are included in the final permit.

Response 13-27

Comment noted.

Comment No. 14-1

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

This letter transmits additional comments from the Community Redevelopment Agency of the City of Los Angeles (Agency) on the above referenced DEIR. The Agency submitted written comments on January 30, 2006 and February 13, 2006, both of which are incorporated by reference. Together these written comments are submitted by the Agency in its role as a responsible agency, given its planning and discretionary approval authority over the proposed Project evaluated in the subject DEIR.

The mission of the Agency is to prevent or eliminate blight. One way the Agency accomplishes this primary objective is to carefully evaluate projects and their impact on the health and safety of those who live and work in the community, now and in the future. The Agency believes that the proposed expansion of the Industrial Service Oil Company, Inc, (ISOCI) poses a threat to the health and safety of Boyle Heights residents and visitors. As is more fully described herein, the DEIR does not fully analyze the potential negative impacts of the proposed expansion and thereby also does not fully mitigate those negative impacts. Further, the Agency asserts that the safety issues

posed by the proposed ISOCI expansion cannot be fully mitigated. Therefore, DTSC should not permit the expansion of the facility.

The Agency has given close scrutiny to the Draft Health Risk Assessment (HRA) and portions of Chapters 2 and 3 of the DEIR. The information reviewed in the DEIR was related to risks of chemical exposures to workers and neighbors of the proposed expanded facility.

Response 14-1

The comments regarding the Community Redevelopment Agency's responsibilities are noted.

Comment No. 14-2

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

Currently the facility recycles waste oil and temporarily stores waste antifreeze. These substances are considered hazardous waste, but the risk levels are relatively low. The main hazard is toxicity from direct contact with skin or ingestion. The recycling process generates hazardous waste sludge that is disposed of offsite.

Response 14-2

Comment noted.

Comment No. 14-3

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

ISOCI proposed to expand its facility by:

1) Expanding existing capacity to recycle waste oil - This will likely increase truck traffic, but may not cause any other new environmental concerns.

2) Installing operations to recycle antifreeze - Currently the facility temporarily stores but does not recycle used antifreeze. Adding new capacity for antifreeze will increase truck traffic but may not cause any other new environmental concerns.

Response 14-3

The comment provides a statement of the operations at the ISOCI facility. The facility estimates that a total of 100 trucks per day will visit the facility which includes trucks delivering waste oil and antifreeze.

Comment No. 14-4

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

ISOCI proposed to expand its facility by:

Accepting new classes of hazardous waste that are more toxic than currently accept. The expanded facility would provide temporary storage for these wastes, but not treat them or permanently dispose of them. Accepting these new classes of wastes could pose considerable risk to the surrounding community. There is a long list of wastes that includes materials that are highly flammable, corrosive, and carcinogenic. Some of these chemicals are highly toxic when inhaled. A catastrophic accident could affect local residents, commuters on the Metrolink, and vehicle occupants on nearby streets.

Response 14-4

Please see Response to Comments 3-2, 4-16, 4-18, 4-56, 4-64, 4-65, 4-68, 4-69, 4-70 4-93, 4-95, and 4-96 regarding risks associated with the proposed project.

The risks associated with the handling of the additional waste streams that would be allowed under the Part B permit are evaluated in the Draft EIR, Section 3.5 and Appendix F). Mitigation measures were required in the EIR to minimize potentially significant hazard impacts.

Comment No. 14-5

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

The HRA assessed risks to human health by considering several exposure scenarios and calculating the potential effect on human receptors both on and off site. The following specific comments apply to the HRA:

Section VII.IA states that adult residents living 1/4 mile, northeast of the facility will be subject to a cancer risk of 1.2 in a million. This exceeds the normal regulatory threshold of 1 in a million.

Section VIII.A also states that the cancer risk to on-site workers is 5.8 in a million, which also exceeds the 1 in a million threshold.

Response 14-5

The cancer risk of 1.2 per million to the adult resident and 5.8 per million to the maximum exposed worker are less than the significance threshold established by the South Coast Air Quality Management District (SCAQMD) of 10 per million; therefore, cancer risk is considered to be less than significant.

Comment No. 14-6

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

Table 2 of the HRA lists, by waste code, the wastes that will be stored in the expanded facility. The waste code numbers, containing a letter plus 3 digits, refer to specific chemicals or waste streams defined in the Code of Federal Regulations (at 40 CFR 261). Most of these wastes were not considered in the HRA or the DEIR. Table 2 also has code numbers that have 3 digits but no letter. It is difficult if not impossible to tell what these numbers refer to; they may present additional unknown hazards to on-site workers and the community.

Response 14-6

See Response 4-95 regarding the chemicals evaluated in the HRA. The hazardous wastes that may be stored in each area of the facility are identified in Table 2. The four digit codes are federal waste codes and the 3 digit codes represent State waste codes.

Comment No. 14-7

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

Table 4 of the HRA, the list of Chemicals of Potential Concern, does not include the same chemicals as Table 3.5-6 of the DEIR, which lists some of the chemicals that may be brought to the facility. The HRA did not consider the hazards of the chemicals in Table 3.5-6. This is a major error because the chemicals listed in table 3.5-6 are among the most hazardous known substances, such as phosgene, methyl isocyanate and hydrogen cyanide.
Response 14-7

Table 4 of the HRA is correct. Table 3.5-6 of the DEIR includes chemicals that were included in waste codes from an earlier version of the ISOCI Part B application. The wastes codes associated with phosgene, methyl isocyanate, and hydrogen cyanide (referred to as P codes) are no longer proposed to be accepted by ISOCI under the most recent Part B application. The HRA is based on the current waste code list of materials to be accepted at the facility. The information in Table 3.5-6 was used to determine hazard impacts and, therefore, conservatively includes chemicals that will not be present in the wastes accepted at the facility.

Comment No. 14-8

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

All of the chemicals listed in Table 3.5-6 are extremely hazardous and need to be handled with great care. Some of the chemicals have notorious reputations such as:

- Nickel Carbonyl – an industrial chemical used in nickel-plating, it is both highly toxic and highly flammable.
- Phosgene — a common industrial chemical; however, it is highly toxic and was used in World War I as a chemical weapon.
- Phosphine — a highly toxic gas, it is used as a fumigant.
- Methyl Isocyanate — Used to manufacture pesticides, an accidental release of this chemical at the Union Carbide plant in Bhopal, India caused thousands of deaths in 1984. It was the worst industrial accident in world history.
- Acrolein — a highly toxic industrial chemical also used as a herbicide.
- Methyl Hydrazine — highly reactive, it is used as rocket fuel.
- Hydrogen Cyanide — a highly poisonous industrial chemical.
- Cyanogen another poisonous industrial chemical, similar to Hydrogen Cyanide.
- Hydroflouric Acid — an extremely corrosive acid.

Response 14-8

Comment noted. The impacts associated with the chemicals listed in the comment are evaluated in the dEIR, Section 3.5 and Appendix F.

Comment No. 14-9

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

1) The HRA does not consider the impact of routine or accidental release of hazardous chemicals from the facility.

2) The HRA does not consider the impact of routine or accidental releases from trucks and railcars bringing chemicals to and from the facility.

Response 14-9

The impacts associated with the accidental release of hazardous chemicals that could be handled at the ISOCI facility are evaluated in the dEIR, Section 3.5 and Appendix F. The impacts associated with accidental releases from trucks and railcars are addressed in the dEIR, Section 3.5.

Comment No. 14-10

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

Comments on hazards in the DEIR:

Sec. 2.5.2 — The chemicals mentioned in this section are highly flammable and/or toxic when inhaled; the sludges produced by the processes described can be toxic when humans come into direct contact with them.

Response 14-10

The health effects associated with the chemicals handled at the ISOCI facility are addressed in the Draft EIR, Section 3.3 – Air Quality and the HRA.

Comment No. 14-11

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

Sec. 2.5.3.2 -- The list of wastes that will be brought to the facility includes materials that can be highly hazardous and difficult to characterize. It is possible that unexpected wastes could be transported to the facility.

Response 14-11

See Response to Comment 4-70 regarding the Waste Analysis Plan.

Comment No. 14-12

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

Sec. 2.5.4 - Highly hazardous materials including cyanide and corrosives will be brought to the facility and stored for up to one year. A failure to properly manage these wastes can cause a serious accident.

Response 14-12

The impact associated with the accidental release of hazardous chemicals, including cyanide and corrosive wastes, that could be handled at the ISOCI facility are evaluated in the Draft EIR, Section 3.5 and Appendix F.

Comment No. 14-13

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

Section 2.9 – The facility has a history of citations by DTSC. Although it appears these prior infractions have been satisfactorily resolved, the past history of problems at this facility should be taken into account when considering whether ISOCI is capable of handling more and different toxic wastes.

Response 14-13

Comment noted. A summary of the enforcement history is provided on pages 2-29 and 2-30 of the dEIR and on page 2-29 and 2-30 of the final EIR.

Comment No. 14-14

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

Section 3.5.4 — This section describes environmental impacts under various scenarios. The rationale for selecting the scenarios and the analysis are inadequate. The following issues need to be addressed:

The DEIR does not state whether or not local truck routes pass near any homes, schools, school crossing points or other sensitive receptors. If the routes do pass near a sensitive receptor; an analysis of potential impacts to that receptor is required.

Response 14-14

The rationale for selecting the scenarios is to provide an evaluation of the potential impacts that could result from accidental releases of hazardous materials associated

with the operation of the ISOCI facility. The transportation routes utilized by the ISOCI facility are shown in Figure 3.10-1 and discussed in Section 3.10.1.2 (page 3-116 of the Draft EIR) and use identified truck routes that generally avoid residential areas.

Comment No. 14-15

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

About one truck spill every six years is expected. If highly hazardous chemicals are involved in the spill, then there is a very high risk of injury to occupants of nearby vehicles and pedestrians. If more trucks come to the facility than stated, the risk is higher and should be analyzed.

Response 14-15

The dEIR analyzes the potential impacts associated with truck accidents in Section 3.5.4.2. The number of trucks that deliver hazardous waste to the facility will be limited by a permit condition (Special Condition 2t) to 100 trucks per day (200 truck trips per day).

Comment No. 14-16

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

The calculation of rail car accidents should not be based on a ":typical" trains model, but on the type of trains that currently operate in the neighborhood. Actual trains may carry more hazardous materials then typical trains. Also the accident rate in an urban area is probably higher than the national average cited in the HRA. Finally it should be conservatively assumed that all cars in a train are affected by an accident, not just 5 out of 70.

Response 14-16

The determination of railcar accidents is based on all train accidents regardless of what they are transporting. An analysis of railcar accidents that only involve hazardous materials would provide a much lower accident rate because a substantial portion of rail

traffic (and thus railcar accidents) does not involve hazardous materials. Similarly, if only railcar accidents in urban areas were considered, the railcar accident rate would be much less because most of the railroad tracks throughout the country run through non-urban areas (e.g., the California desert). No other data regarding railcar traffic has been provided by the commentator that would allow for an alternate hazard analysis.

Comment No. 14-7

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

Section 2.0 — The scenarios do not include any of the following possibilities: earthquake, fire affecting multiple storage tanks, accidental mixing of incompatible materials, and secondary containment breach. For example, there is no consideration of how a spill or fire would affect the Metrolink Commuter Rail line adjacent to the facility.

Response 14-17

The hazard analysis includes all credible hazards at the facility, and evaluates their impacts regardless of how the release occurred, e.g., human error, mechanical failure, earthquake, or other natural disaster. The accident scenarios could occur due to any of these events and the hazards (consequences) would be the same.

A worst-case fire would be the release the content of a tank into the containment area with a resulting fire. The fire hazard would be the same with more than one storage tank involved because the hazard analysis assumes that the whole containment area is on fire. See Response 4-70 regarding mixing of incompatible materials.

Comment No. 14-18

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

Section 5.0 — The stated windspeed of 1.5 m/s (3 miles per hour) is much too low. The calculations only cover a spill at the facility; they do not cover a spill of the same chemicals caused by a truck or rail accident outside the facility.

Response 14-18

DTSC disagrees with the comment. The assumption of a slow wind speed provides worst-case estimates of emissions during a release because little dispersion of the vapor cloud occurs under low wind conditions. If a higher wind speed was used in the analysis, the material would move out of the area quicker and faster resulting in reduced concentrations in the vicinity of a release. The lower wind speed was chosen in order to provide a worst-case (and higher) estimate of the hazard impacts in the event of a release. Therefore, choosing a lower wind speed is more protective of human health and the environment.

Comment No. 14-19

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

The following general comment applies to the DEIR: the conclusions In the HRA were not considered in the DEIR, therefore the DEIR is not complete.

Response 14-19

The comment that the HRA was not considered in the dEIR is incorrect. Please see Section 3.3.4.6 of the dEIR (page 3-38) which states the following: " A health risk assessment has been developed to assess the potential impacts associated with the emissions of toxic air contaminants from activities at the ISOCI facility and the related impacts associated with exposure to emissions. The results of the health risk assessment are summarized in this section." The dEIR directly quotes the results of the HRA in the EIR.

Comment No. 14-20

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

Both the HRA and the DEIR are deficient by their failure to consider all the chemicals that may enter the facility and all of the scenarios under which a chemical exposure may occur. The DEIR should include a discussion of the risks discovered by the current HRA. The HRA concluded that the proposed expansion poses a cancer risk of up to 1.2

in a million to local residents and 5.8 in a million to on-site workers. This risk should be considered in the DEIR; any risks should be mitigated or the processes that pose these risks should not be performed at this facility.

Response 14-20

DTSC disagrees with the comment that the HRA and the dEIR are deficient by failing to consider all chemicals that may enter the ISOCI facility and all scenarios under which a chemical exposure may occur. Please see Response to Comments 14-15 and 14-19 regarding the HRA.

Comment No. 14-21

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

In addition, a new HRA should assess all the chemicals that will be brought into the facility, analyze the risks they pose, and the results of that analysis also included in a revised DEIR. Particular attention needs to be paid to analyzing the effect of routine and accidental releases of all of the most hazardous waste streams that may be brought to the facility. Further attention also needs to be paid to the likelihood and effect of a transportation accident near the facility.

Response 14-21

DTSC disagrees with the comment that a new HRA should be drafted and the dEIR should be revised. See Responses 14-6, 14-7 and 14-14 through 14-16 regarding the HRA and hazard analysis.

Comment No. 14-22

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

Finally, consideration should be given to the past history of regulatory violations by ISOCI in determining whether ISOCI is capable of handling materials that are much more hazardous than the ones currently handled at the facility.

Response 14-22

A summary of the enforcement history is provided on pages 2-29 and 2-30 of the EIR. DTSC has considered ISOCI's compliance history and believes that it is capable of handling materials that are proposed as well as those currently handled at the facility. In addition, DTSC will be conducting regular inspections at the ISOCI facility to ensure that it is in compliance with all applicable statutory and regulatory requirements.

Comment No. 14-23

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

The Aesthetics analysis in the DEIR is inadequate in that it does not properly address potentially significant light and glare impacts, potential visual impacts of the surrounding properties and contains inaccuracies.

The DEIR does not properly analyze the potential effects of light and glare. The Applicant's facility operates 24 hours a day, 365 days a year. According to the DEIR, "Lighting is required at the ISOCI facility to provide safe working conditions." Thus, lighting is necessary for a safe working environment. There are lights on the tanks and the processing equipment. Mitigation of light and glare cannot include removal of lighting because it would create an unsafe working environment.

The Olympic/Soto Mixed-Use development is a proposed mixed-use project that will have sensitive receptors located approximately a couple blocks away from the Site that could be adversely affected by Project lighting. The threshold of significance for CEQA requires a finding of significance if the project adds lighting that would adversely affect nighttime views in the area or add glare to residential or sensitive receptors. This condition may very likely exist. Thus, light and glare have been inadequately analyzed and the DEIR is insufficient for determining a potentially significant impact in Aesthetics and whether or not mitigation would be required. There is no mitigation currently planned.

Response 14-23

The ISOCI is an existing operating facility. As indicated in the Draft EIR (see page 3-10), the light sources at the facility are not expected to change due to the issuance of the Part B permit. No new light sources are required at the ISOCI facility, therefore, no significant impacts on light and glare are expected and no mitigation is required.

The Olympic Soto Mixed-Use development proposed at the corner of Olympic and Soto Street is located about 1,500 feet from the ISOCI facility at its closest point to the Sears Tower property. There are a number of other light sources much closer to the Sears Building than the ISOCI facility. As noted in the EIR the major, and most noticeable, sources of light and glare in the project area are the city's street lights along Soto Street. These sources of light and glare are much closer to the Sears Building and much larger sources of light and glare impact than light sources at ISOCI.

Comment No. 14-24

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

Partial views of the waste storage tanks would be visible from Soto Street. However, views from the nearby Sears tower have not been addressed. It is an existing structure that is proposed to be occupied with residents and workers. The aesthetic impact of on site tanks and waste storage visible to the public needs to be analyzed in the DEIR. It is not. The DEIR is therefore inadequate in its analysis of Aesthetics.

Additionally, Table ES-1 inaccurately states that there are "No visual resources in Boyle Heights." The Sears architecturally historic tower is located less than 1/2 mile away. It may even be possible to see it from the Site. It is a factually inaccurate statement that there are no visual resources in Boyle Heights.

Response 14-24

The ISOCI facility is an existing industrial facility that contains about 22 existing storage tanks and is compatible with the existing industrial nature of the surrounding area. The storage tanks are not currently visible from most portions of Soto Street because of the grade separation between Soto Street and the ISOCI facility. Soto Street is lowered about 50 feet below the ISOCI facility location so that the tanks are not visible to most portions of Soto Street.

The Part B permit will not change the visual character of the ISOCI facility. It will allow the construction of additional storage tanks, which are also not expected to be visible to most of Soto Street.

The contention that the view created as a result of development on the Sears site should be considered speculative because: (1) the site is currently occupied by commercial land uses and there are no current residential areas on the site; (2) no application has been submitted, so that the location of proposed residential units, commercial uses and other activities are currently unknown; (3) the current owner has announced that it will not go forward with development plans at the site; and (4) the site is contaminated so that the timeframe for development, if and when it occurs, is many years away. Finally, as shown in Figure 3.7-1 of the Draft EIR, all land surrounding the ISOCI facility is zoned for heavy industrial land use, with the closest commercial use being the Sears Tower building (over 1,500 feet away). The Sears Tower is largely surrounded by existing industrial land uses to the northwest, west, south, and southeast. Therefore, with or without the ISOCI facility, the views from the Sears Tower of the immediate surrounding area will be predominately surrounded by heavy industrial land uses that include ECKO Metals, warehouses, old commercial and industrial buildings north and west of the ISOCI facility, the various freeways in the area (Interstate 5, Interstate 60, Interstate 10 and Interstate 101), and major railroad facilities including the Hobart Railroad Yard (a major railroad terminal and train staging area located just east of the ISOCI facility.

The EIR followed the City of Los Angeles' CEQA Thresholds Guide (May, 14, 1998) to review aesthetic impacts of the ISOCI project. The guidelines ask the following questions:

- Does the project include a proposed zone change or variance that would increase density, height, and bulk in areas where there is a consistent theme, style, or building height and setback?
- Response: No - The Part B permit would not require a zone change or variance but would be consistent with the industrial nature of the surrounding area.

- Does the project include a proposal to develop or allow development in an existing natural open space area (not including previously developed or infill lots)? Response: No - The Part B permit would allow development within the confines of the existing facility and would not allow development in an open space area.

- Would the project result in the removal of one or more features that contribute to the valued aesthetic character or image of the neighborhood, community, or localized area? Response: No - The project would not result in the removal of any structures or aesthetic features.

- Would the project introduce features that would detract from the existing valued aesthetic quality of a neighborhood, community, or localized area by conflicting with important aesthetic elements or the quality of the area or by being inconsistent with applicable design guidelines? Response: No - The Part B permit would allow additional industrial development within the confines of an existing facility that is surrounded by industrial facilities.

The City of LA CEQA Thresholds Guide indicates that a "no" response to all of the preceding questions indicates that there would normally be no significant impact on aesthetics from the proposed project. The EIR followed the guidelines established by the City of LA for the review of aesthetic impacts and concluded that no significant adverse aesthetic impacts would be expected.

Comment No. 14-25

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

The analysis of Air Quality in the DEIR is inadequate due to factual inaccuracies, poor methodology and insufficient analysis of potential impacts on sensitive receptors and populations.

The DEIR does not adequately analyze the potential significant impacts of the ISOCI facility specifically. The analysis is largely based on general statistics of similar facilities but rarely if at all takes into account the specific impacts of the facility at the Site.

Response 14-25

The impacts associated with sensitive populations were evaluated in the hazard analysis (3-67 to 3-75), as well as air quality impacts (see Draft EIR, page 3-45). The Draft EIR indicates that the maximum incremental increase in cancer risk to a sensitive receptor population was estimated to be 1 per million for adults and 0.5 per million for children at the Lou Costello Recreation Center. The cancer risk at all other sensitive populations is expected to be less than 1 per million.

The air quality impacts from the ISOCI facility are based on emission calculations from the facility itself and not "general statistics of similar facilities." See Appendices C and D for detailed emission calculations of the facility.

Comment No. 14-26

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency

According to the DEIR, temperature has a major effect on vertical mixing height and affects chemical and photochemical reaction times. Tanks experience breathing loss, a release of vapor from a tank through vapor expansion, which occurs as a result of temperature and is not a result of the amount of toxic material in the tank. August tends to be the warmest month in the Los Angeles Basin. August also tends to be a month where many school-aged children are out of school and participating in outdoor activities. And children, as sensitive receptors, are especially vulnerable to the toxins generated by ISOCI. Given that there is a greater likelihood of exposure of sensitive receptors to higher concentrations of toxic emissions in the air at certain times, the analysis should include a discussion on how much greater the potential emissions could be and what mitigation is proposed for protecting nearby sensitive receptors.
In the discussion on Sensitive Populations, the DEIR states:

> *"Sensitive populations generally include schools, day care facilities, hospitals, and hospice/convalescent homes. The nearest sensitive population is the Lou Costella Jr. Recreation Center located about 0.75 mile north east of the ISOCI facility."*

In fact, there are two schools located 0.31 miles and 0.38 miles, respectively, from the site. The DEIR is inaccurate and the analysis of risk was based on this inaccuracy.

The Boyle Heights community has a sizable population of elderly and children. The area north of the ISOCI facility is highly urbanized. The community has expressed concerns about asthma and health care. Asthma and general health concerns are issues related to exposure of sensitive receptors to highly toxic chemicals, especially in the air. The DEIR does not take into account the volume of sensitive receptors that potentially stand to be exposed. Attached is an aerial map that helps illustrate the number of sensitive receptors in the surrounding community, most of which were not considered in the DEIR. (See attached "Department of Toxic Substances Control (DTSC) — 1700 South Soto Street — ISOCI Proposed Permit for Hazardous Waste Facility" map)

Response 14-26

See Response 2-9 regarding the analysis of sensitive populations, including the potential location of residents at the Sears Tower.

The emission calculations from storage tanks include the estimated daily minimum and maximum temperatures (see Appendices C and D). Further, the emission calculations included the fact that certain tanks are heated and operate with elevated temperatures (about 200 ^{o}F).

The comment indicates that two schools are located 0.31 miles (about 1,640 feet) and 0.38 miles (about 2,000 feet) from the ISOCI site but does not include the location of these schools in the comment.
The health risks associated with sensitive receptors were evaluated in the EIR and HRA. The Draft EIR and HRA recognizes that the area surrounding the industrial portions of the City contain numerous individuals and sensitive populations. The sensitive receptors evaluated in the HRA are identified in Figure 7 of the HRA. As shown in the HRA, the closest sensitive receptor or school to the ISOCI facility is the area near the Lou Costello Jr. Recreation Center. The maximum incremental cancer risk at the Lou Costello Jr. Recreation Center was about 1 per million for adult residents and 0.5 per million for child residents. The risk at all other locations would be less than 1.0 and 0.5, respectively, and less than significant. As discussed in Responses 2-9 and 9-25 above, the cancer risk at all sensitive population areas is less than 1 per million and, therefore, less than significant.

Comment No. 14-27

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency:

The Adelante Eastside Project Area Committee (PAC) provides advice to the Agency and represents some of the concerns of the Boyle heights community. During a PAC meeting held on March 28, 2006, the Department of Substances Control (DTSC) presented the ISOCI proposed project and information related to the DEIR. Following extensive questions and answers, the PAC unanimously voted to oppose the expansion of the ISOCI facility. Several PAC members also mentioned the desire for DTSC to hold an additional public hearing in the Boyle Heights community. This was due to the last public hearing being held outside of the Boyle Heights community, in South LA.

Response 14-27

Comment noted.

Comment No. 14-28

The following is a written comment from Julia Stewart representing Los Angeles, Community Redevelopment Agency:

The agency appreciates the opportunity to expand upon its earlier comments and will be carefully reviewing the response from DTSC in the Final EIR.

Response 14-28

Please see Responses 2-1 through 2-19 for responses to the comments provided in your February 13, 2006 letter.

Comment No. 15-1

The following is a written comment from Jane Williams, et.al:

The undersigned organizations and individuals submit the following comments on the Draft Hazardous Waste Facility Permit (Part B) and Draft Environmental Impact Report (DEIR) for the Industrial Services Company, Inc. (ISOCI) hazardous Waste facility located in the Boyle Heights neighborhood of Los Angeles, California. In the comments that follow, we describe the serious shortcomings in the public process and deficiencies in the proposed Part B Permit, DEIR and Tanner Act compliance pursuant to Cal. Health & Saf. Code § 25199 *et seq.*

Response 15-1

Comment noted.

Comment No. 15-2

The following is a written comment from Jane Williams, et.al:

We have concerns about the DTSC's public outreach efforts concerning this project. We understand that the Department may have relied on outdated public contact information. This and other public participation problems were voiced to the Department by residents during meetings at the Boyle Heights Neighborhood Council

and Resurrection Church. Moreover, as discussed below, we believe that the public participation requirements of the Tanner Act have not been followed.

Response 15-2

Please see Response to Comments 1-1 through 1-5, 4-3 through 4-7 regarding public participation.

DTSC appreciates the commentors' concerns and is committed to ensuring that public outreach is provided in every project. However, DTSC has determined that it did not use outdated information. Specifically, the public contact information was current as of December 15, 2005 when the public notice was published. The mailing list for the Industrial Services Oil Company Draft Hazardous Waste Facility Permit was compiled in August 2005 and updated in September through December 2005. The list was based on the DTSC guidelines of a complete mailing list. The three components that make up a complete mailing list are:

1. Key Contacts List
2. Facility Mailing List
3. DTSC Mandatory Mailing List

The Key Contacts List consists of State and Federal Elected Officials (State Senate, State Assembly, U. S. Congress), Local Elected Officials (County Supervisors, which include all if there are more than one district within the facility boundaries, and Mayors), City and Agency Officials (City Managers, Water Districts, City's Department of Environmental Health, School Districts, City's Planning Department), Community Representatives or Groups (homeowners' associations, neighborhood watch groups, chairs of neighborhood councils, and the chamber of commerce if the site is in a business area). Also included were community group leaders and environmental activist groups who have expressed interest to be notified.

The Facility Mailing List consists of the names and addresses of individuals who are affected by the project (generally starting at quarter-mile radius from the boundary of the facility) and includes the following:

> Contiguous Property Owners, Other Interested Persons (including persons who requested to be on the site mailing list), and sites that are considered to be Sensitive Receptors such as Schools, Day Care Center, Hospitals, Parks.

The DTSC Mandatory Mailing List includes Project Manager, Branch Chiefs, Unit Chiefs, Public Participation Supervisor, Public Participation Specialist (PPS), Regional Records Room Supervisor, and statewide and local interested individuals and agencies.

DTSC used two different services to produce its facility mailing list, one which updates its database of addresses on a monthly basis and one that updates its database of addresses on a bi-monthly basis. DTSC believes that the resources used to compile its Facility Mailing List are current.

Comment No. 15-3

The following is a written comment from Jane Williams, et.al:

The public is unclear about the nature and scope of activities allowed under the proposed Part B Permit. We are informed that DTSC's public notice document did not inform the public of the facility's proposal to store 250,000 gallons of hazardous waste in rail cars at the facility. Also, the notice paints an unrealistic picture of the facility's long history of noncompliance with hazardous waste laws and regulations.

Response 15-3

Please see response to comment No. 4-2 through 4-7 regarding public participation and No. 4-8 through 4-11 regarding rail cars and 4-29 through 4-32 regarding enforcement history.

Comment No. 15-4

The following is a written comment from Jane Williams, et.al:

We are informed that ISOCI is proposing to store up to ten rail cars containing up to 25,000 gallons of hazardous waste for up to one year. This is equal to the amount of time that hazardous waste would be stored in long- term stationary tanks, which are surrounded by secondary containments and regularly assessed and recertified. ISOCI has installed a rail car containment system comprised of spill pans underneath the area where each rail car would be parked. Long-term (up to one year) storage of hazardous waste in this many rail cars that do not meet the regulatory requirements for long term storage is simply unsafe.

Response 15-4

See Responses 4-4, 4-8 through 4-11, and 4-67 regarding hazards related to storage of hazardous waste in railcars.

Comment No. 15-5

The following is a written comment from Jane Williams, et.al:

The facility and permit conflict with section 100 of the Adelante Eastside Redevelopment Plan and Plan components including housing and environment goals as well as explicit commercial and industrial objectives. The DEIR also ignores sections 408.4 and 516 of the Plan concerning conformance determinations. Moreover, the project is proposing more intense industrial uses in a transitional Olympic/Soto area pursuant to the Boyle Heights Community Plan designated for commercial development. The DTSC and the DEIR do not adequately address these land use conflicts with the Redevelopment and Community Plans.

Response 15-5

See Responses 2-7 through 2-11 regarding consistency with the Adelante Eastside Redevelopment Plan.

Comment No. 15-6

The following is a written comment from Jane Williams, et.al:

The stale Notice of Preparation (NOP) and DEIR fail to accurately define baseline conditions or identify and evaluate all significant environmental impacts. Recirculation of the DEIR is appropriate at this stage to satisfy CEQA's requirements.

Response 15-6

DTSC disagrees that the Notice of Preparation (NOP) is stale. DTSC further disagrees that the dEIR fails to accurately define baseline conditions or identify and evaluate all significant environmental impacts. Please see Response 2-4 regarding the NOP. Recirculation is required when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review but before certification (CEQA Guidelines §15088.5). Significant new information requiring recirculation (CEQA Guidelines §15088.5(a)(1) – (4)) includes:

- A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

- A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

- A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.

- The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

None of the above conditions exist with the ISOCI EIR, therefore, recirculation is not necessary.

Please note that recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR (CEQA Guidelines §15088.5(b))

Consistent with section 15082 of the State CEQA Guidelines, immediately after deciding that an Environmental Impact Report (EIR) was required for this project, DTSC filed a Notice of Preparation (NOP) with the Governor's Office of Planning & Research (OPR) stating that an EIR would be prepared. This notice provided responsible and trustee agencies and OPR with sufficient information describing the project and the potential environmental effects to enable the responsible agencies to make a meaningful response. The information in the NOP included a description of the project, as well as location, and probable environmental effects.

After filing of the NOP, DTSC directed ISOCI to submit accurate and detailed information about proposed facility operations and expansions necessary for the permit application submitted pursuant to Chapter 6.5 of the Health & safety Code to be considered complete. In addition, DTSC worked with the EIR consultant to ensure that this information was accurately reflected in the draft EIR, along with information concerning any changes to the environmental conditions affected by the project. While a decision has only recently been made with respect to a completeness determination on ISOCI's permit application, the basic description of the proposed project and surrounding environmental conditions have not changed appreciably to the degree that re-circulation of the draft EIR is required.

Comment No. 15-7

The following is a written comment from Jane Williams, et.al:

The enforcement history and general history of the facility and the project development must be fully considered and documented . The facility has a record of soil contamination and operation without appropriate secondary containment for hazardous materials. Now, the facility proposes to significantly expand contaminated oil treatment, import a vast new array of toxic materials, and store large amounts of hazardous materials temporarily in railcars, without full disclosure of existing conditions or potential future impacts. The project proponents propose that the public simply trust that future permits will eventually set standards for operation precluding any significant impacts. These details should be provided in the DEIR.

Response 15-7

A summary of the ISOCI enforcement history is provided on pages 2-29 and 2-30 of the dEIR. See Responses 4-44, 4-45, and 4-46 regarding permits. See Responses 4-4, 4-8 through 4-11, and 4-67 regarding hazards related to storage of hazardous materials in railcars.

Comment No. 15-8

The following is a written comment from Jane Williams, et.al:

The DEIR's project description fails to clearly delineate which project components would be actually new, which seek authorizations under a Part B permit for components already implemented, and which have been otherwise implemented since 1995. The project description focuses solely on elements that are proposed as new additions to the existing ISOCI facility. Existing components that apparently have been implemented in a piecemeal fashion cannot legally be included as part of baseline conditions. However, the DEIR never clearly distinguishes between the components that are existing and those that are proposed. This confusion continues throughout the DEIR, and it is impossible to decipher what specific changes have occurred on the project site or its surroundings since the NOP was published a decade ago.

Response 15-8

Please see Response 4-52 regarding the project components evaluated in the EIR. See Response 4-51 through 4-55 regarding baseline.

Comment No. 15-9

The following is a written comment from Jane Williams, et.al:

The DEIR also states that ISOCI has filed under the State's general permit requirements for a general storm water permit. *See* DEIR, 3-81. It is unclear whether the facility currently is operating under a storm water permit, and if so, whether the facility has compiled with the conditions of its permit. The DEIR also states that an industrial wastewater discharge permit will be required for the facility to discharge industrial wastewater into the municipal sewer. See DEIR 3-87. The DEIR does not provide specific discharge limits associated with anticipated future discharges. Finally, the DEIR fails to discuss potential aspects of the project on the public drinking water well that is located one-half mile from the site. The DEIR should be revised to address these deficiencies.

Response 15-9

See Response 4-75 regarding the storm water permit.

Comment No. 15-10

The following is a written comment from Jane Williams, et.al:

DTSC may not approve the project unless and until it is consistent with the Los Angeles County Hazardous Waste Management Plan. *See* Health & Safety Code § 25135.4. The DEIR asserts that the Project is consistent with the plan. To the best of our knowledge, however, no such conclusion has been made by the proper authorities. Until there is such a consistency determination, DTSC is prohibited as a matter of law from approving the project. Moreover, DTSC will violate its internal policies if it certifies the DEIR prior to the consistency determination.

Response 15-10

See Response 4-90, 4-91, and 4-92 regarding consistency with the Los Angeles County Hazardous Waste Management Plan.

Comment No. 15-11

The following is a written comment from Jane Williams, et.al:

The DEIR acknowledges that the proposed project is subject to the requirements of the Tanner Act, Health Safety Cede § 25199 et *sec],* However, the DEIR gives the misimpression that proceedings pursuant to the Tanner Act already have been initiated.

The DEIR explains that the Office of Permit Assistance in OPR conducted a pre-application meeting with the public in 1996 to discuss the project. However, no further action has been taken pursuant to the Tanner Act. To the extent any Tanner Act proceedings occurred, they were effectively terminated as a result of the City terminating ISOCI's application for a CUP. The Tanner process must begin anew.

The Tanner Act establishes a detailed process that ensures community involvement in significant land use decisions concerning hazardous waste facilities. At least 90 days before applying for the local permit, a notice of intent to make the application must be filed with the Office of Permit Assistance in OPR. *See* Health & Safety Code § 25199.7(a). The City is then required to publish notice of the proposed project in the local newspaper, post notices in the affected area, and notify by direct mail contiguous property owners. *See id.,*25199.7(a). Once the application for the CUP is complete, the City has up to 30 days to form a seven-member local assessment committee to advise it in considering the land use, application. *See i,d*., § 25199.7(d). The local assessment committee advises the City as to community concern, conditions necessary to protect human health and the environment and compliance with CEQA. *See i,d*., § 25199.7(d) in order to carry out this function, the local assessment committee may obtain technical assistance from the City to adequately review the DEIR. *See i,d*., § 25199.7(d), (g). Within 60 days of receiving notice that the application for the CUP is complete, OPA is required to convene a meeting of the lead and responsible agencies for the project, the proponent, the local assessment committee, and the interested public for the purpose of evaluating the project. *See id.,* § 25119.7(e).

The statutory scheme makes it clear that the Tanner process should run simultaneously with the CEQA process to ensure the public's meaningful

involvement. In the present case, however, the Tanner proceedings are not scheduled to begin until the CEQA process is complete. The Legislature has deemed this type of circumstance to be unacceptable: "Present procedures for approving hazardous waste facilities do not provide meaningful opportunities for public involvement and are not suitably structured to allow the public to make its concerns known and to cause those concerns to be taken into consideration." *See id.,* § 251.99(a)(3);

A full and comprehensive process must be established to engage the affected community in the environmental and land use review for the facility's proposed expansion. The community involvement process mandated by the Tanner Act is the appropriate way to engage the community and address issues of environmental justice. DTSC should schedule the Tanner process to run simultaneously with the CEQA environmental review process so that hazardous waste issues are not artificially divorced from the land use issues. If DTSC cannot work with the City to coordinate the EIR process alongside the Tanner community involvement process, DISC should re-designate the City as the lead agency for the EIR. *Planning and Conversation League v. Dep't of Water Resources* (2000) 83 Cal.App.4th 892.

Response 15-11

See Responses 2-2 and 4-90, 4-91, and 4-92 regarding the Tanner process.

Comment No. 15-12

The following is a written comment from Jane Williams, et.al:

For these reasons, DTSC should correct the deficiencies in the Permit and DEIR, recirculate the documents to the public online, and with Spanish translation. Further, the process should be coordinated with Tanner Act compliance. Should you have questions, please contact the undersigned.

Response 15-12

As noted in the Response 15-1 through 15-11, no deficiencies in the permit or Draft EIR have been identified in the comment. See Response 1-2 regarding Spanish translation of documents and Responses 2-2 and 4-91 regarding the Tanner process.

Comment No. 16-1

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

On behalf of Communities for a Better Environment ("CBE"), I write to express our deep concern and frustration about the course that DTSC has chosen in issuing Industrial Service Oil Company's ("ISOCI") Hazardous Waste Facility permit. First, DTSC failed to notify CBE of important developments despite CBE's expressed interest in the public process for the proposed project, and second, DTSC's process undermines California's Tanner Act (H & S Code § 25199 *et seq).* We request that DTSC adopt a transparent and genuine public participation process and coordinate this permitting process with Tanner Act requirements *before* it issues ISOCI's hazardous waste permit and certifies the EIR. We incorporate this letter into our original comments submitted February 2006.

Response 16-1

Comments noted.

Comment No. 16-2

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

DTSC Failed to Notify CBE of Important Developments
DTSC's failure to notify CBE about changes to the public participation process even after CBE explicitly stated its interest in this proposed permitting action affected CBE's actual participation. Days before the initial comment deadline, I contacted you to find out whether the comment deadline was to be extended. You told me that the deadline had not been extended. Based on this response, our experts hurriedly completed their comments without the benefit of certain requested documents. In fact, in our comments, we noted that the available record remained incomplete and that much of the record that was made available was not in a coherent form. (*See* CBE Comments, page 4.) We requested that DTSC restart the public comment period and make the full administrative record available including DTSC's working files. *Id.* I learned only later that the comment deadline had been extended. No one from DTSC

notified us of this change. The fact that DTSC extended the comment period but did not notify us of the extension and in fact misled us to believe that it would not be extended is inexcusable.

DTSC has also failed to notify CBE of community presentations. In our initial comments to the proposed permit and CEQA document, CBE asked that DTSC update us about future proceedings concerning this facility. (*See* CBE Comments page 34.). Yet, DTSC has convened at least two community meetings since we submitted our comments without notifying CBE. Two weeks ago, DTSC attended a meeting with EP Consultants and the Boyle Heights Neighborhood Council ("BHNC"). We learned of the meetings from an attendee the day of the Boyle Heights meeting, March 29, 2006. At that point, we were unable to participate. Since CEQA is a public participation statute intended primarily to educate those who are affected by permitting decisions and to allow them to improve the permitting action, an open, transparent process is critical. CBE would like to be notified of all future meetings concerning this project.

Response 16-2

DTSC apologizes for any miscommunications regarding the extension of the public comment period. At the time of the exchange of emails between Ms. Bloch, CBE representative, and Mr. Rounds, DTSC representative, a decision as to extension of the public comment period had not been reached by DTSC. Once DTSC determined to extend the public comment period, CBE was notified in the same manner as all interested parties

To clarify, DTSC held one public hearing on January 21, 2006 at the Ross Snyder Recreational Center, located at 1501 East 41st Street, Los Angeles, California 90011. DTSC notified CBE of that hearing through its public participation process. Subsequent public community meetings were convened by outside parties in which DTSC was invited to attend as a guest speaker. As a guest, DTSC was not privy to, nor in a position to ask for, the list of attendees at those meetings. However, DTSC will notify CBE of any hearings or meetings it conducts in the future regarding this project. DTSC disagrees with the comment that its attendance at these public meetings was in any way inappropriate or in conflict with the CEQA process. To the contrary, DTSC attended these community meetings in an effort to work with and provide the affected community with the opportunity to ask questions and learn more about the project.

Comment No. 16-3

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

DTSC's Ad Hoc Process Undermines the Tanner Act's Participation Requirements
DTSC has met with at least two neighborhood groups since the comment period was extended: the Project Area Committee and the BHNC. Generally, CBE would be pleased that DTSC was willing to meet with groups who seek information about a project. However, the ad hoc manner in which these meetings are taking place undermines the "Tanner Act Process.[3]

The Tanner Act was passed to provide an organized procedure for siting hazardous waste facilities, and includes a public participation and appellate review. Under the Act, codified in Health and Safety Code § 25199.7, the permitting body must forma local assessment committee composed primarily of the community at large and representatives of environment or public interest groups. Cal.H&S Code § 25199.7(d)(1). This committee advises the local agency in its permitting decision. Cal. H$S Code § 25199.7 (d).The process is designed to ensure that members of the community have access to technical support, access to the same information, and the opportunity to dialogue.

The DEIR acknowledges that the proposed project is subject to the requirements of the Tanner Act and that the City of Los Angeles is the proper local agency for Tanner purposes because the project requires a conditional use permit. Generally, the body that issues the conditional use permit also initiates the CEQA process. This ensures a coordinated public participation process. Also typically, the CEQA process and the conditional use permit are concurrent. If DTSC continues with its current course, the Tanner Act proceedings will occur after the hazardous waste permit is issued and the EIR has been certified, turning the conditional use permitting process, and Tanner Act requirements as a whole into a mere formality.

By holding meetings with a couple of individual groups, DTSC undermines the Tanner process by lending a false sense of legitimacy, giving different people different information, preventing information sharing, keeping people from knowing that they need and are entitled to their own access to technical help.

One result of not following the Tanner process is that participants receive generic and inaccurate information about the proposed project in response to community concern. For instance, at the BHNC, neighbors asked legitimate questions concerning the extent of the public participation effort and that it met the legal and procedural requirements, the health risks posed by the proposed facility expansion and

activities, and the containment for all locations/units at the facility where hazardous chemicals will be stored. All of these questions were answered inaccurately and in a way that the Tanner Act process is designed to avoid. For example, DTSC stated that it conducted community outreach as required by law — requiring surveys of 1/4 mile radius and that the City Council member of that area was notified. In reality, DTSC's used a 10 year old mailing list so that the group names and addresses no longer existed, and, notably, the mailing list *did not* include the current City Council member. In response to a question about preventing toxic leaks from tanks and contaminating groundwater, DTSC failed to mention that ISOCI proposes to store 250,000 gallons of hazardous wastes in railcars that are not secondarily contained or seismically protected. In response to a question regarding chemicals at the facilities, DTSC failed to mention the 300 plus waste codes including cyanides that the facility proposes to take. There are many other examples; I have attached some of these statements as Exhibit C.

Notably, DTSC never mentioned the Tanner Act Process at the BHNC meeting, or to my knowledge, any other community meeting. So, while DTSC knows that the Tanner Process exists and is applicable to ISOCI's proposed project, it never took the opportunity in all the questions about public process to inform the community of its enhanced public participating rights.

Response 16-3

Please see response to comment 16-2. DTSC disagrees with the comment that its participation in public community-held meetings undermines the Tanner Act. Additionally, please see Response to Comment 4-90, 4-91, and 4-92 regarding the Tanner process and Response to Comment 4-5 regarding public participation and mailing lists and Response to Comments 4-8 through 4-11 regarding railcars. DTSC answered specific questions at the public meetings. No questions regarding the Tanner Act were posed.

Comment No. 16-4

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Another result of DTSC's process is that not everyone directly impacted by the project is contacted. ISOCI is not a remote facility whose impacts will go unnoticed. Within .5 miles of the facility are the Wyvernwood Apartments; 1125 affordable or

low income units with approximately 6000 residents. Abutting that complex is Dena elementary school at 2750 Hostetter. Since the school is located about 50 yards from the corner of Soto Street and Olympic, some of the, kids are certainly often on Soto Street. That part of Soto is the route to the facility from Interstate 5. In addition, a very short block down Olympic is Boyle Avenue. On the corner, again about .5 mile from the facility, is the Colonia Jess Perez Retirement Housing Foundation Community, a large multi-story complex. There is no indication that anyone at Wyvernwood or the Colonia knows about this proposal. As part of the Tanner Act process, the City would go through amore extensive notification process and convene a public meeting open to the general public to inform them "on the nature, function, and scope of the proposed specified hazardous waste facility project and the procedures that are required for approving applications for the project." Cal. H&S Code § 25199.7(c). Here; DTSC met with two groups and did not hold this general meeting to inform.

Response 16-4

Please see Response 1-3 and 4-5 regarding the DTSC's public outreach program. Additionally, please see Response to Comment 16-2 and 16-3 regarding DTSC attending community-held meetings.

Comment No. 16-5

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

The California legislature enacted Tanner in response to its realization that the procedures for approving hazardous waste facilities did not provide meaningful opportunities for public involvement and were "not suitably structured to allow the public to make its Safety Code § 25199(a)(3). DTSC is undermining the legislature's vision by, in effect, approving this hazardous waste facility without incorporating the structures that the statute was enacted to create.

Response 16-5

See Responses 2-2 and 4-90, 4-91 and 4-92 regarding the Tanner process. DTSC disagrees with the comment that it is undermining the legislative vision by moving forward with the Hazardous Waste Facility (HWF) permit process. DTSC is required by

statute to issue a HWF permit even though a land use permit has not been issued. (Health & Saf. Code ' 25199.3 subs.(a))

Comment No. 16-6

The following is a written comment from Adrienne L. Bloch, representing Communities for a Better Environment:

Conclusion
DTSC has an obligation to work with the City of Los Angeles in permitting ISOCI's project and complying with Tanner Act requirements. By leaving the main public process until after all of the other permits are issued and certified, DTSC is actively undermining the Tanner Act CBE requests that if DTSC does not wish to participate in a fair and proper process, that it step aside and allow the City of Los Angeles to act as the lead agency for CEQA purposes so that the public can make informed recommendations regarding this project.

Response 16-6

Please see Responses 2-2 and 4-90, 4-91, and 4-92 regarding the Tanner process. DTSC disagrees with the comment. DTSC has acted, and continues to act, in good faith and in compliance with all applicable statutory and regulatory requirements, including CEQA and the Tanner Act.

Comment No. 17-1

The following is a written comment from Theresa Cano:

I am a resident and community member that will be directly affected by Industrial Service Oil Company's plan for growth and expansion. The first of my concerns is, I am a severe asthmatic with a newborn premature baby who also has respiratory problems. I have lived in this community over 30 years. Over the years, the pollution in this immediate area has become so bad that I can not go outside. In the summer when the pollution is at its worse, I am forced to-take breathing treatments 4 to 5 times per day. My concern is that if the air quality in the area is this bad now and his company is allowed to expand and increase productivity by 40%, it may and will be the cause of an asthma attack that I will not recover from. My son will also suffer the same risk. I am a mother of 5 and my son is just a baby we

would like to be able to leave out home without the risk of a massive asthma attack and losing cur lives. I know for a fact that I am close enough to the site for it to affect me because. There is a Farmer John plant that is further than this site and that plant is also a cause of my increased respiratory problems. I am not alone, there is a high concentration of medically fragile senior citizens and children in the area. If this site is allowed its permit, all the other residents, community members and I with respiratory conditions will pay the price.

Response 17-1

DTSC appreciates and understands the commentor's concerns regarding potential health risks to the community. DTSC's mission is to protect public health and the environment. This mission can be achieved by permitting facilities that manage hazardous waste. DTSC uses the permit process as a means to oversee and control operation of different facilities by requiring facilities to reduce their pollution and comply with applicable environmental laws and regulations.

As part of the permit process, a Health Risk Assessment (HRA) was prepared for the ISOCI facility. DTSC reviewed the HRA to insure accuracy, completeness and adherence to State and federal guidance before the HRA is used for regulatory purposes. The South Coast Air Quality Management District (SQAMD) is the agency responsible for controlling emissions primarily from stationary sources of air pollution. This includes adopting and implementing rules to reduce emissions, emission source testing, issuing permits, and conducting inspections. Any requests that have to do with SQAMD must be made to that agency. The SQAMD is outside of DTSC's jurisdiction and authority.

Please see Response to Comments 2-8, 2-9, 3-3, 14-10 and 14-25 regarding health risk associated with the proposed ISOCI project.

Comment No. 17-2

The following is a written comment from Theresa Cano:

The next concern is there are four schools near by one of which is a school for special needs. Some of these children have fragile medical conditions. Not only do we have worry about the air quality. If there is an incident on site or rear the site, how can we evacuate and take to safety the thousands of children in these schools.

There is no way we can do that in a timely manner. Who and how would that be done?

Response 17-2

Please see Responses 2-8,2-9, 3-3, 14-10, and 14-25 regarding health risks associated with the proposed ISOCI project. Also, please see the dEIR, section 3.5.2 regarding local authorities.

DTSC appreciates the commentor's concern regarding safety and evacuation plans for the community in the case of a release from the ISOCI facility. This is outside the scope of DTSC's jurisdiction and suggests the commentor contact its local emergency response agency, such as the Los Angeles Fire Department for guidance in this matter.

Comment No. 17-3

The following is a written comment from Theresa Cano:

The next concern is in the event of a major incident there are too many residents to be evacuated. There are two major housing projects and four schools and in the near future the Sears site will be a major shopping center with an additional school and condominium complex. That will be a couple of more thousand people right across the street. The city does not have enough resources to evacuate the residents, schools, and businesses in a safe timely manner. This community is suffering from a shortage of Police and Fire department personnel. We do not have adequate city resources to respond to an incident. Our response time for emergency services is already at a crucial level. Any incident of any size will pull them from responding to the communities needs. This will also risk lives in our community.

Response 17-3

Please see Responses 2-8, 2-9, 3-3, 8, 14-10,14-25, 17-1, and 17-2 regarding health risks associated with the proposed ISOCI project. Also, please see the Draft EIR Section 3.5, Hazards. Mitigation measures are expected to reduce the hazard impacts to less than significant. An on-site release at the ISOCI facility would not be expected to require evacuation of any individuals in the surrounding community.

Comment No. 17-4

The following is a written comment from Theresa Cano:

The next concern is the increased traffic in the area. The streets around the site are already congested and in disrepair. The increased number of trucks will make things even worse. The Sears project is due to start by next year. That project alone will be years of construction and Soto street will be going through major reconstruction and changes. WE also have several intersections where there are always accidents. Soto and Olympic and Soto and Washington are the closest intersections and they both have frequent major accidents. It will be a matter of time before a truck with toxic contents is in an accident and the contents are spilled. How and who is going to contain that? With what resources? One of these schools is on this corner. Our first reponders which is our police department do not have the adequate protective equipment or personnel for their safety. What would be the response time for a fir department hazmat team to get there and contain a major incident? How will they evacuate the area?

Response 17-4

Please see Response to Comment 17-2 and 17-3. Please see the dEIR, Section 3.10 Transportation and Traffic for the traffic impacts associated with the ISOCI facility. Traffic impacts were considered to be less than significant.

Please see Response 2-10 and the Draft EIR, Chapter 5 – Cumulative Impacts, Section 5.3.9 – Transportation and Traffic. The Draft EIR recognizes that the cumulative traffic impacts are potentially significant.

Comment No. 17-5

The following is a written comment from Theresa Cano:

Last the figures given for the risk of cancer might look very low and insignificant on paper. One in a million might lead people to believe that the risk is so low that it cant be them or they could not be affected. In reality the one person has to be someone in the community and the risk that is might be someone I love is too much of a risk for met to take. We are a close knit community and the loss of any one life is not ok or insignificant. We are all valuable and not an expendable figure. No company or dollar amount can replace the life of a child or parent. A company of this sort does not belong so close to a large growing residential community I am a member of the Resurrection

Neighborhood Watch and I speak for thousands of people in the community who will protest to the fact that we absolutely do not want this permit granted and this company in this community. We have worked hard to bring redevelopment and restoration projects that are currently planned by our city to this area. Please to not permit our death sentence. We beg you to take our lives into consideration with your decision. Thank you for your time.

Response 17-5

DTSC takes its responsibility to oversee California's hazardous waste management program very seriously and is committed to ensuring that all applicable statutory and regulatory requirements are complied with by all persons who manage hazardous waste in California. DTSC conducts regular inspections at the facility to ensure that it is in compliance with the permit and that the operation of the ISOCI facility does not pose a risk to human health and the environment.

Please see Responses 2-9, 3-3 and 14-25 regarding health risks associated with the proposed ISOCI project.

Comment No. 18-1

The following is a written comment from Mr. Philip B. Chandler:

The permit application project documents related to the proposed issuance were not completely included on-line with the notice. U.S. EPA recommends in FRL-7875-9 [Draft Final Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs], which was published in CFR VO1 70, No. 42 [March 4, 2005] that its recipients—agencies such as DTSC that receive funding from them--establish an on-line information repository as a means to enhance public participation. A repository should include electronic versions of all applicable documents such as the ISOCI application and the original ISD. DTSC has again failed to do this. Please re-notice and assure that all applicable information is available in and on-line repository.

Response 18-1

The comment cites draft guidance that, once final, will be a recommendation and guidance only, not a requirement. State laws, regulations and policies do not require

DTSC to post on its website all documents pertaining to permit application and original Interim Status Document (ISD). Although it is not required by regulations, DTSC does post some of the key documents relating to a pending or completed permit decision on its website (e.g., fact sheets, draft and final permit, and public notices of the public comment period and public hearing). The purpose of posting these documents on the website is to inform the public as to the status of the permit decision (e.g., public comment period and public hearing dates), provide basic background information regarding the facility and the proposed permit decision, and provide information regarding the location(s) where interested parties may view further details concerning the proposed permit decision. Currently, DTSC does not generally post on its website the numerous documents, some of which are quite voluminous (e.g., Part B permit applications), that are incorporated into the proposed permit decision by reference or considered in making the permit decision. All of these documents, however, are available for public review in the DTSC office issuing the permit decision and/or the public repositories established during the public comment period. These copies of the proposed permit decision documents, referred to as the "administrative record", are intended to be the primary and complete source of information for public review. Based on the above, DTSC declines to comply with the commentor's request to re-notice.

Comment No. 18-2

The following is a written comment from Mr. Philip B. Chandler:

More specifically, the electronic use of the so-called "Attachment A" as a proxy for the actual permit is deliberately deceptive and violates all rules of conscience by an agency of the State of California. The Hazardous Waste Management Program (HWMP) has deliberately "streamlined" the "permit"----your agency's terms not mine--- such that only regurgitated "unit" descriptions and *a* few piddling bits of other information are included in what the agency presents as "the Permit". The vast bulk of informative material lies buried in the application which your agency makes grudging available at a community repository and at the agency. How many citizens realize that your miserable scrap of information—"Attachment A" fails to contain the most significant information to them as a community? How many citizens mistakenly assume that when they go on-line they have "Permit" and don't realize that DTSC has effectively hidden 90% of it from them? The agency needs to be held accountable for its deceptive practices. The agency is clearly abusing its regulatory ability to include things by reference when the bulk of the Permit is treated that way and not even made available electronically. As an aside, it does

appear that only very tight legislation on what will be placed on-line will cause DTSC to properly treat the public it is supposed to serve.

Response 18-2

DTSC disagrees with the comment that the public comment process is a “deceptive practice”. Further, DTSC disagrees with the comment that it is being “deliberatively deceptive” in providing Attachment A electronically but not other portions of the permit. Attachment A is a portion of the Hazardous Waste Facility Permit. Part III.1(a) of the Permit clearly states that the Part A and Part B Applications are made a part of the permit by reference. DTSC has made the Part B application, as well as the draft permit, draft EIR, and Health Risk Assessment available for review during the public comment in order that the public has access to all relevant information that is included in the permit making decision. Members of the public were able to access the documents at the repositories identified by DTSC in the public notice and provide comments to DTSC. The Notice of the public comment period of the draft permit decision, which is posted on the website, provided the public with information as to where these additional documents are available for review. None of the details of the draft permit are “concealed” and the full permit, including incorporated and supporting documents are available for public review. Incorporation by reference is a common legal practice and is specifically authorized pursuant to California Code of Regulations, title 22, section 66270.32, subsection (e), in the drafting of hazardous waste facility permits.
Please see Response to Comment 18-1.

Comment No. 18-3

The following is a written comment from Mr. Philip B. Chandler:

I understand that the fact sheet describes partial closure of the former locations of used oil storage tanks. Why is it listed under "Facility Assessment" with the corrective action work? Why are such closing units not listed in the permit? Are there line items in the closure cost estimate that cover these units? If DTSC decides to close with waste in place rather than disturb the concrete that has been poured since the various units were rotated about, does that cost estimate include post-closure care as a land disposal unit? If not, why not? The facility has played a "shell" game over the years in shifting tanks from one location to another within the fence line, without closing, in the RCRA sense, at the prior locations. Where such closure has not been properly adhered to for any of the tanks which are part of the "super-units" that DTSC has created, either the original tanks themselves or subsequent functional equivalents

should be required, as a special condition of this Permit, to address closure and post-closure care, as appropriate, at all of the previous locations. VERY SPECIFICALLY, THIS IS AN ISSUE OF UNFAIR BUSINESS ADVANTAGE THAT THIS FACILITY IS BEING GIVEN. ALL FACILITIES ARE REQUIRED TO PUT FINANCIAL ASSURANCE (FA) FOR CLOSURE AND FOR POST-CLOSURE CARE WHERE WARRANTED. DTSC HAS CAREFULLY AND DELIBERATELY CREATED A SITUATION IN WHICH THIS FACILITY HAS TO COVER ONLY A FRACTION OF THE REAL CLOSURE COST. Please provide an estimate of the value of not cleaning the soils at the former locations of the tanks moved around by this Facility----with or without DTSC approval before or after the fact. Simply stating that such cleanup will be done as part of corrective action is attempting to defer it into never-never land. Despite a statutory requirement for a facility to provide corrective action FA, DTSC has consistently failed to require it. Therefore, by deferring closure FA to corrective action FA, the Facility skates and gets an advantage over other RCRA facilities. This is immoral and further places the public purse in jeopardy. Show to me, if you can, that this isn't the case. Provide a table of all previous tanks and their locations. Show where they have been moved to or replaced. Prove that you are not granting this facility a major financial windfall.

Response 18-3

DTSC disagrees with the comment that it is providing an “unfair business advantage” to ISOCI. Consistent with statutory and regulatory requirements, DTSC has determined that it is requiring the appropriate closure cost estimate for the ISOCI facility and therefore, treating ISOCI the same as other similarly regulated permitted facilities.

The section of the Fact Sheet that is referred to in this comment is titled “Facility Assessment Performed / Closure of Former Location of Used Oil Tanks.” These units are not listed in the permit because the former location of the used oil tanks has no currently operating units and thus is not part of the permit.

The new location of the tanks is included in the permit as the “Oil Treatment System” unit. The CCE for the site investigation of the former locations of the oil storage tanks at the ISOCI facility ($124,400.00) is included in the Hazardous Waste Facility permit in Part V.1.b.

To discuss closure in place in the comment above, DTSC assumes the commenter is referring to the present location of the oil storage tanks. It is premature to consider closure with waste in place for these tanks as they are presently in operation. If

contamination is found under the present location of the oil storage tanks, it will be addressed in the Corrective Action since closure may not take place for several years.

During the Corrective Action process, an investigation of the entire site will take place. If contamination is found during this investigation, the appropriate measures will be taken to ensure that the contamination is properly addressed. Because these tanks have been determined to be tank storage units that have secondary containment, they will not be considered as land disposal units.

The permit has included a condition (Special Condition 2p) to investigate all areas of the facility, including the former tank locations, and thus closure and post-closure, if necessary, of the former tank locations will be addressed. The Financial Assurance will be updated to include the former tank location.

The calculation of the value for not cleaning soils at the former tank location cannot be determined at this time because of the uncertainty of any soil contamination. Financial Assurance will be updated in the future, if it is determined to be necessary after investigations are completed.

DTSC is not deferring closure Financial Assurance to Corrective Action. As stated above, DTSC is requiring the facility to provide Financial Assurance for closure investigation activities at the former tank locations.

It is outside the scope of this permit to calculate the possibility of a “financial windfall” for this facility and DTSC will not perform this calculation.

Comment No. 18-4

The closure and post-closure assurance of financial responsibility for the original tanks themselves at any and all past locations and all subsequent functional equivalents—should be required, as a special condition in this Permit, in addition to the current tanks in the present incarnation.

Response 18-4

Financial responsibility and financial assurance for the closure of these tanks is addressed in the current Closure Cost Estimate (CCE) for the ISOCI facility, which is required by California Code of Regulations, title 22, Chapter 15, Article 8. DTSC is also in the process of updating the CCE for ISOCI which will include soil sampling to

determine if any contamination exists where the tanks were previously, or are currently, located. Please see "Response to Comment 18-3" for further details regarding this matter.

Comment No. 18-5

The following is a written comment from Mr. Philip B. Chandler:

The Fact Sheet provided by DTSC is deceptive and dishonest by omission. ISOCI has received numerous Notices of Deficiency (NODs) from 1988 to 2005. Not one word is mentioned in the fact sheet. Please provide an exact account of the formal NODs that ISOCI has received from DTSC. Please explain why a letter citing these NODs was rescinded a number of years ago. Next, provide an exact account of how many "draft reviews" and other dodges that DTSC used to avoid issuing formal NODs. The statutes and regulations require that permit denial be initiated after a certain number of NODs to a facility. Did ISOCI exceed this magic number? If it did, why isn't the explanation of how it still manages to get a permit included in the fact sheet? Please explain why ISOCI gets special treatment in this regard? Please explain how and why ISOCI received a Technical Completeness Determination (TCD) on June 30, 1995 and is just now, in 2006, having its draft permit public noticed. Obviously, there were some difficulties after that notification. Please explain what they were. Please explain how ISOCI could receive a 25-page NOD on June 14, 1995, listing a number of sections of the application that were inadequate and still receive a TCD on June 30, 1995. It is assumed that the maps required would take longer than a few weeks to prepare. Did ISOCI fully amend the application in two weeks? If so, why did it take another 11 years for the permit to be prepared? DTSC works faster than that if the application is truly complete. How many more submittals was ISOCI requested to make over the next 11 years? How many revised applications did they submit in that period of time?

Response 18-5

DTSC disagrees with the comment that the Fact Sheet is "deceptive and dishonest by omission." DTSC has determined that it is in compliance with California Code of Regulations, title 22, section 66271.7 (Section 66271.7) because the ISOCI Fact Sheet includes each required portion of Section 66271.7. Please note that Section 66271.7 does not require inclusion of the facility's enforcement history or permitting history. The fact sheet provided by DTSC is for informational purposes only and does not include

contain an exhaustive history of all issues relating to the facility. The enforcement history for ISOCI is included in the dEIR (pages 2-29 and 2-30).

Please see Response to Comment 4-29 regarding ISOCI's enforcement history. .

Although the comment regarding the Notices of Deficiency (NOD) is beyond the scope of this permit, DTSC provides the following response. First, California Code of Regulations, title 22, section 66271.2, subsection (e) (Section 66271.2(e)) states, in part, "…[I]f an applicant does not respond to three **or more** notices of deficiency regarding the same or different deficiencies or responds with substantially incomplete or substantially unsatisfactory information on three or more occasions,…" (emphasis added). The language in Section 66271.2(e) is merely directive and not a mandatory requirement to a public agency, such as DTSC. Second, DTSC took into consideration many factors in determining the appropriate course of action in this matter. A major component was the need for used oil recycling facilities and the fact that there had been a diminishing number of these facilities in California during the time of this permitting process. DTSC had denied permits to five different used oil recycling facilities (Dico Oil, PRC Signal Hill, PRC Patterson, Gibson Oil-Bakersfield, and Leach Oil) that were unable or unwilling to meet the regulatory requirements for this type of facility. In addition, other facilities closed for a variety of reasons (Gibson Oil-Wilmington and Gibson Oil-Redwood City). Finally, given DTSC's limited resources and the critical need for used oil recycling in California, along with ISOCI's willingness to move forward with the permitting process and continued efforts to resolve the deficiencies, DTSC determined that it would be more efficient and protective of the environment to continue with the permit process rather than to deny the permit application and start over thereby delaying and lengthening the process.

Comment No. 18-6

The following is a written comment from Mr. Philip B. Chandler:

Lest you think that I am overly concerned about a simple bureaucratic regulation, please provide an accurate tabulation of the man-hours, by labor category – staff, supervisor, etc., that DTSC has expended on reviewing the ISOCI applications from 1988 to 2005. Next, provide a dollar value for those hours and provide a comparison to the single permit application fee that DTSC received in 1988. Finally, explain why after multiple NODs over a period of 17 years that DTSC did not initiate permit denial and require a re-application fee or even multiple fees from ISOCI. I believe we will find that DTSC arbitrarily provided free service to ISOCI for a good many years. Any

argument that EPA pays through the Grant would be ridiculous-----it is still public money.

Response 18-6

The subject of man-hours and the associated dollar values for such time is not within the scope of this permit, and thus will not receive a response. If anyone from the public wishes to research the time spent on the processing of this permit and its associated costs, they may make a Public Records request with DTSC.

Comment No. 18-7

The following is a written comment from Mr. Philip B. Chandler:

The Health Risk Assessment (HRA) was not placed on-line, so my questions will be more general. Did DTSC include a cumulative risk from other facilities in the airshed, e.g. Vernon? Were PM 2.5 included in the HRA in any way? Was the interaction between organics released by ISOCI and organic and inorganic particulates released by nearby facilities included in the HRA? Did DTSC treat the expansion of this facility as an isolated event? The fact sheet does not explain that this facility is being treated in isolation without regard for other sources in the area.

Response 18-7

Please see Response to Comment 18-5 regarding the Fact Sheet.

The Health Risk Assessment (HRA) was available at a public library and at the DTSC Glendale office during the public comment period, and was provided to some members of the public that requested a copy of it.

The HRA was prepared according the Human Health Risk Assessment Protocol (HHRAP) prepared by the U.S. EPA Office of Solid Waste and Emergency Response (OSWER). The HHRAP was developed to provide national guidance and consolidate information previously prepared by the U.S. EPA in other risk assessment guidance and methodology documents. A HRA Protocol based on the HHRAP was prepared and submitted to the DTSC. The HRA has been prepared using the methodology and assumptions outlined in the HRA Protocol and comments received on the Protocol from DTSC. The HHRAP requires that the health risks of individual facilities be considered in order to provide a comparison of the facility's relative risk with other facilities and to

determine if the facility under question has an acceptable risk. ISOCI has requested a Part B permit and DTSC has to make a determination if the risk from ISOCI is acceptable in order to issue the permit. Therefore, the HRA must examine the risk from the ISOCI facility as that is the only permit action being considered.

The cumulative impacts from toxic air contaminants in the Los Angeles area are evaluated in the ISOCI EIR (see Chapter 5, page 5-7). The cumulative impacts on toxic air contaminants were based on the MATES II Study conducted by the SCAQMD. The MATES II study concluded that the cancer risk was about: (1) 400 per million from stationary and mobile sources; (2) about 250 per million from mobile sources alone; and (3) about 1,000 per million associated with diesel particulate emissions. These levels are then compared to the estimated risk from the ISOCI facility (about 1.2 per million for residential exposures).

The HRA evaluated the impacts of toxic air contaminant emissions from the ISOCI facility. PM2.5, like PM10, NOx, VOCs, SOx and CO, is a criteria pollutant with specific air quality standards (i.e., acceptable exposure levels), unlike toxic air contaminants. The impacts of criteria pollutants are evaluated in the Draft EIR (see Chapter 3, Subsection 3.0), and are consistent with the requirements of the SCAQMD.

Toxic emissions are evaluated in the HRA and those particulate emissions that are considered to be in particulate form, were included in the HRA. For example, particulates associated with combustion emissions were included in the HRA, including cadmium, chromium, polycyclic aromatic hydrocarbons (PAHs, e.g., benzo(a)pyrene). The HRA did not separate these contaminants into particle size but assumed that they were all in the respirable range and would be inhaled and absorbed.

The HRA calculated the total hazard index for each organ system and assumes that the combination of multiple subthreshold exposures could result in an adverse health effect. The assumption is made that the effects of each substance and the interaction between chemicals are additive for a given organ system. The actions associated with some chemicals may be synergistic (create greater health impacts) or cases antagonistic (create less health impacts); however, per U.S. EPA and OEHHA guidance, sufficient data do not exist to estimate these interactions (HHRAP prepared by the U.S. EPA OSWER, and OEHHA Air Toxic “Hot Spots” Risk Assessment Guidelines).

Comment No. 18-8

The following is a written comment from Mr. Philip B. Chandler:

The fact sheet lists 58 solid waste management units. How many of these SWMUs are active tanks or other "sub-units" of the operating facility? How many of these are locations of "old" units? How many of the locations of the "old" units should be part of DTSC's closure universe rather than listed under corrective action? How much FA does ISOCI save by this kind of categorization if it has occurred?

Response 18-8

Twenty (20) of the Solid Waste Management Units (SWMUs) listed in the Fact Sheet are active hazardous waste tanks at the ISOCI facility. Seven of these tanks were previously located elsewhere at the facility as oil storage tanks. Part V. Special Conditions (2)n, (2)o, and (2)p of the draft and final permit require the facility to conduct a DTSC-approved investigation of the former locations of these 7 tanks and conduct closure activities to achieve clean closure performance standards. If clean closure cannot be achieved, a post-closure permit application and post-closure financial assurance shall be submitted to DTSC, for DTSC review and approval. Part V, Special Condition 1b & 1c require financial assurance to cover the cost of closure or any post closure care that may take place at the facility with respect to these units. The question posed as to how much Financial Assurance (FA) ISOCI may save by this kind of categorization is unknown and is beyond the scope of this permit.

Comment No. 18-9

The following is a written comment from Mr. Philip B. Chandler:

Has ISOCI provided an adequate map-----1/2 foot contour intervals----to show pattern of surface water run-off on the site? Have all Holocene faults, including blind thrusts been accounted for in the application? What are they? Hopefully, someone had the sense to look at recent editions of the Bulletin of the Seismological Society of America. If not, the applicant and DTSC will be overlooking some significant fault systems. Were they adequately treated in the DEIR? What hydrologic information was provided in the application? Does the waste analysis plan include all waste streams? Is there a list of COCs for this site? Was it included in the DEIR? Is it accurate? Is there a discussion of incompatible waste in the application? What are the design limitations for profile analyses? Records may need to be kept longer than suggested since post-closure may be a requirement from some of the partial closure work. Does the profile parameter list include PCBs—all congeners? Did the application finally list

all of the materials used to coat the tanks? Is there now a complete list of all of the waste streams to be stored in each tank? Are the engineer certifications included? Was information on roof design ever provided? Is there a seismic evaluation for the roof(s)? Have the operating temperatures been provided? Were the corrosion rate calculations provided? Did the design specifications for the foundations get provided? Are there cracking patterns in the concrete containment outside of the tank pedestals? Has DTSC properly inspected the concrete for settlement cracks? Did the seismic loading calculations get included in the application? When were they provided? What leak tests are being provided? Is there any underground piping? Is it double-walled? Is there layering of waste within the tanks? What is the compatibility of the wastes to be stored with the tank liner material? What is the expected service life of the tanks? Was it calculated with the highest corrosion rate? What sort of air monitoring is being provided? Have all of the emission rates for the units been submitted? Please explain the data supporting any such submittal. What are the procedures and schedules for monitoring the various aspects of the Facility, including the control devices? What are the closure performance standards? This is one element that every citizen will have some concern about and it is lacking from the permit---- pardon me, perhaps it is in the application that is only available when someone comes into a repository. What ground water protection component is there or is this the standard health risk only clean-up? Did the cost estimate include any soil removal? Any groundwater investigation?

Response 18-9

A ½ contour interval map to display surface run-off at the ISOCI facility is included as Figure II-5 of the Part B permit application.

Information regarding seismic faults, including blind thrusts, is included in Appendix C, "Geology Reports," of the Part B permit application. The names of the faults may be found in Appendix C, Table 2, titled "Major Named Faults Considered to be Active or Potentially Active Within a 62 Mile Radius."

DTSC believes that the draft EIR consideration of these faults was adequately treated.

The hydrologic information contained within the application (also located in Appendix C of the application) included identification of depth to groundwater, the location of water wells in the general vicinity of the facility, a map identifying these wells, identification of the shallow aquifers below the facility, the permeability and

communication between these aquifers, the groundwater flow, and location of the closest production well in the area of the facility.
The waste analysis plan includes all waste streams, and can be found in Section III of the application. The list of Chemicals of Concern (COCs) is included in Appendix B of the draft EIR and is considered accurate as of the date of publication of the document.

The discussion of incompatible waste is included in Section III.J of the Part B permit application, titled “Ignitable, Reactive, and Incompatible Wastes.”

The design limitations for profile analyses are the same limitations that would occur for any laboratory analyses and include systematic error, random error, detection error, false positive errors, false negative errors, etc.

The profile parameter list includes PCBs. A complete list of all profile parameters can be found in Table III-4 of the Part B Permit application.

The tanks at ISOCI are not required to be coated however, they are required to comply with California Code of Regulations, title 22, Division 4.5, Chapter 14, Article 10: Tank Systems.

In addition, the permit will state that: “The interior of tanks in this system will be epoxy-coated if necessary to resist corrosion.” Please see Response to Comment 13-14 for more information on this issue.

A list of all waste streams to be stored in each tank is listed in Part IV of the permit, titled “Permitted Units and Activities.” The process description for each unit describes the specific waste streams to be handled at that unit.

Engineer certifications are included in Volume 6 of the Part B Permit application, titled “Tank Records.”

Information on roof design and seismic evaluation for roofing is included in Volume 6 of the Part B Permit application, titled “Tank Records.”

Operating temperatures for the heated tank systems have been provided in the Part B permit application. Please refer to the individual process descriptions for the specific temperature(s).

Tank corrosion information is provided in Volume 6 of the Part B Permit application, titled “Tank Records.”

Design specifications for the tank foundations were provided in Volume 6 of the Part B Permit application titled “Tank Records.”

DTSC has no record of cracking patterns in the concrete containment outside of the tank pedestals at the ISOCI facility.

DTSC inspects the concrete for settlement cracks at permitted facilities on an annual basis, including the ISOCI facility.

Tank seismic stability calculations are provided in Volume 6 of the Part B Permit application, titled “Tank Records.” These calculations were provided at the time of tank certification.

Ultrasonic testing was performed for tank thickness to detect leaks. This testing was performed within the scope of American Petroleum Institute standard 653 – Tank Inspection, Repair, Alteration, and Reconstruction.

The only underground piping that exists at the ISOCI facility is the conveyance piping for the railcar spill containment system. Because this underground piping is part of a secondary containment system it does not require double-walled protection.

If wastes contained in a tank are of different densities, such as oil and water, they will layer inside the tank.

The wastes to be contained in the tanks have been evaluated and certified by a registered engineer to be compatible with the tank construction material. If it is determined that the waste may not be compatible with the tank construction material, the tank will be epoxy coated.

The expected service life of the tanks is unknown, however the tanks are required to be inspected and certified for service by a registered professional engineer once every five years.

As stated in Section V of the Part B Permit application, “Facility operations will comply with applicable federal and local (e.g., South Coast Air Quality Management District or SCAQMD) standards for air emissions from processes and containers. Potentially

applicable standards include requirements for air permitting, emission controls, and monitoring, recordkeeping, and reporting for air emissions. Applicable air emissions standards currently include SCAQMD rules and federal standards for RCRA facilities including:

- 40 CFR 264.1030: Subpart AA (Process Vents)
- 40 CFR 264.1050: Subpart BB (Standards for Equipment Leaks); and,
- 40 CFR 264.1080: Subpart CC (Air Emission Standards for Tanks, Surface Impoundments, and Containers).

Appendix A includes preliminary air emissions calculations based on the facility configuration as proposed in the original Part B application. Air emission calculations and emission control requirements may be modified upon further review of facility operations. Applicability of specific federal standards and SCAQMD rules will be determined based on revised air emission calculations, and the facility will comply with administrative and substantive regulatory provisions for air emissions as appropriate."

A list of the procedures and schedules for monitoring the various aspects of the facility can be found in Section VIII (Management Practices), Section IX (Personnel Training), and Section X (Contingency Plan & Emergency Response) of the Part B Permit Application.

Section XI.A.1 of the Closure Plan states that "ISOCI plans the clean closure of the facility. This Closure Plan is designed to comply with 22 CCR Article 7 (sic), and clean closure of the facility will be accomplished by achieving non-detect or health-based standards for soil and wipe samples of tank, equipment, and piping surfaces." This information, as stated, is included in the Part B Permit application. It is available for public viewing upon request. Soil removal and groundwater investigation were not included in the Closure Cost Estimate because it has not been determined that these actions are needed. If soil removal and groundwater investigation is determined to be necessary, DTSC will be requesting ISOCI to update the CCE to include these actions.

Comment No. 18-10

The following is a written comment from Mr. Philip B. Chandler:

The assurance of financial responsibility (AFR) for corrective action is required by statute to be included in permits issued by DTSC. Why isn't this addressed? Why isn't the AFR for corrective action addressed? By its silence on corrective action AFR, it is

believed that this permit is inconsistent with and contradictory to the intent of H&SC) §25200.10(b). H&SC requires that, ***"When corrective action cannot be completed prior to issuance the permit, the permit shall contain schedules of compliance for corrective action and assurances of financial responsibility for completing the corrective action."*** [H&SC §25200.10(b)] Title 22 states ***"That the permit or order [emphasis added] will contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing such corrective action."*** [Title 22 CCR §66264.101(b)] In perusing the consent agreement, it is clear that DTSC has not completely addressed corrective action but has failed to require corrective action AFR in the permit. Moreover, there appears to be no schedule of compliance for completion of corrective action in the permit.

Response 18-10

The AFR is addressed in the draft Hazardous Waste Facility Permit as special conditions 1.b, 1.c, and 1.d. The facility will be required to comply with the financial assurance requirements of California Code of Regulations, title 22, Division 4.5, Chapter 14, article 8. In addition, Section 9.6 of the facility's Corrective Action Consent Agreement, located on page 28 of that document, states that: "As directed by DTSC, within 90 calendar days of DTSC's approval of all required CMI documents, Respondent shall establish a financial assurance mechanism for Corrective Measures Implementation. The financial assurance mechanism may include a performance or surety bond, liability insurance, an escrow performance guarantee account, a trust fund, financial test, or corporate guarantee as described in 22 Cal. Code Regs. section 66265.143 or any other mechanism acceptable to DTSC. The mechanism shall be established to allow DTSC access to the funds to undertake Corrective Measures Implementation tasks if Respondent is unable or unwilling to undertake the required actions."

Comment No. 18-11

I would urge DTSC to require proper closure and put into post-closure care, as appropriate to any waste left in place, all former locations within the ISOCI facility of all of the tanks involved in this Permit. DTSC should do this as special conditions of the Permit—unit by unit since that is the way the "Attachment A" is written. If you have any questions regarding the foregoing comments, please call me at (310) 455-1962.

Response 18-11

Comment noted. DTSC believes that proper closure and post-closure considerations have been adequately addressed. See permit "Section IV. Special Conditions," items 2n, 2o, and 2p.

Comment No. 19

The following is a written comment from Alicia Aceves:

I would like to be added to the mailing list:

Alicia Aceves, 3413 Garnet Street, Los Angeles, Ca, 90023

The meeting that I attended at Resurrection Church was very informative. I know that you understand our community's concern.

Response 19

Comment noted. Ms. Aceves will be added to the facility mailing list.

Comment No. 20

The following is a written comment from Martha Cisneros:

No more additional toxics in Boyle Heights. It's a disaster waiting to happen. Enough is enough!

Response 20

While DTSC understands and appreciates the concerns raised, DTSC has no regulatory authority over the placement of hazardous waste facilities in California. Please see Response to Comment 8, 17-1 and 17-2.

Comment No. 21

The following is a written comment from Rosa Marina Gabaldón:

I don't want more toxics in my neighborhood.

Response 21

Please see Response to Comment No. 20.

Comment No. 22

The following is a written comment from Armando Gabaldón:

No more toxics in Boyle Heights.

Response 22

Please see Response to Comment No. 20.

Comment No. 23

The following is a written comment from Angela Bojorquez:

No more toxics in Boyle Heights.

Response 23

Please see Response to Comment No. 20.

Comment No. 24

The following is a written comment from Rafael Castellanos:

Please add me to the mailing list.

Response 24

Comment noted. Mr. Castellanos will be added to the facility mailing list.

Comment No. 25

The following is a written comment from Lydia A. Rodriguez:

I don't want more toxics in my area.

Response 25

Please see Response to Comment No. 20.

Comment No. 26

The following is a written comment from Elisa C. Delgadillo:

No more toxics in Boyle Heights.

Response 26

Please see Response to Comment No. 20.

Comment No. 27

The following is a written comment from Gabriel Robles:

No more toxics in Boyle Heights.

Response 27

Please see Response to Comment No. 20.

Comment No. 28

The following is a written comment from Delia Robles:

No more toxics in Boyle Heights.

Response 28

Please see Response to Comment No. 20.

Comment No. 29

The following is a written comment from Elvira D. Hernandez:

No more toxics in Boyle Heights.

Response 29

Please see Response to Comment No. 20.

Comment No. 30

The following is a written comment from Loretta Hernandez:

No more toxics in Boyle Heights.

Response 30

Please see Response to Comment No. 20.

Comment No. 31

The following is a written comment from Victoria Torres:

We do not need more toxic places or made larger in the Community.

Response 31

Please see Response to Comment No. 20.

Comment No. 32

The following is a comment from Felicia Ann Gonzalez:

My concern is that sometimes when I jog or ride my bicycle will it affect my health in the future? I live in Estrada Courts, once in a while I ride my bike toward Soto Street to Boyle, or sometimes toward Atlantic Avenue. Right now my kids are healthy but will the toxic smell affect them in the future?

Response 32

Please see Chapter 3, Section 3.3 – Air Quality for a discussion of air quality impacts associated with the ISOCI facility. Also, please see Responses 2-9, 3-3, and 14-25. The health risks associated with exposure to toxic air contaminants that may be emitted from the facility are expected to less than significant so that no significant health impacts are expected.

Comment No. 33-1

The following is a comment from F. Acosta:

Who has access to the facility.

Response 33-1

Access to the ISOCI facility is provided to ISOCI workers, vendors that supply waste oil and other wastes to the facility, companies that purchase recycled oil and antifreeze, and vendors that supply products purchased by ISOCI. The Department of Toxic Substances Control (DTSC) and other regulatory agencies also have access to the ISOCI facility which conduct inspections and monitor compliance of the permits issued by these regulatory agencies.

Comment No. 33-2

The following is a comment from F. Acosta:

How does Boyle Heights benefits from this.

Response 33-2

The benefit provided by ISOCI to Boyle Heights and the surrounding areas is having a centrally located oil recycling facility that: (1) provides oil recycling which is more protective of the environment than disposing of hazardous waste at a landfill; (2) reduces the number of trucks traveling on the roads and the distance that those trucks need to travel to reach an oil recycling facility, reducing emission associated with trucks and transportation hazards (see Draft EIR, Chapter 4, Section 4.2 regarding the impacts associated with the No-Project Alternative); and (3) reduces the potential for illegal disposal of hazardous waste by having a facility located near the sources that generate the wastes.

Comment No. 33-3

The following is a comment from F. Acosta:

Are there any cancer agents findings in the EIR?

Response 33-3

See Response 3-2 regarding the potential cancer risks associated with operation of the ISOCI facility.

Comment No. 33-4

The following is a comment from F. Acosta:

Why does our Public Servants keep selling us for their own interest & not the int. of the people.

Response 33-4

Comment noted.

Comment No. 33-5

The following is a comment from F. Acosta:

How would it stop the process.

Response 33-5

DTSC is unsure of the commentor's question. If the question is, "How would the public stop the permit process," the public comment period gives members of the public an opportunity to voice their concerns regarding the draft permit and dEIR. Regulations (California Code of Regulations, title 22, Section 66271.18) provide the public with an opportunity to participate in the permit decision by providing comments. Regulations also set out an appeal process whereby those who commented on the draft permit or attended the public hearing have an additional opportunity to petition DTSC to review any condition of the permit decision. Any other person may petition for administrative review only to the extent of the changes from the draft to the final permit decision.

Comment No. 34-1

The following is a written comment from Kayla-Ann Mejia:

Do not allow the expansion because of the small air particle risk that has not been studied and due to the Sears Project that will promote home ownership & community.

Response 34-1

Please see Responses 2-9, 3-3, and 14-25 regarding health risks associated with the proposed ISOCI project. The potential impacts associated with particulate matter are evaluated in the Draft EIR (see pages 3-31 through 3-37).

Comment No. 34-2:

The following is a written comment from Kayla-Ann Mejia:

Need more info on a mile radius!!

Response 34-2

Page 3-20 of the dEIR discusses sensitive populations and the one mile radius. It states as follows:

"Sensitive populations are considered to be areas of where groups of individuals accumulate who are more susceptible to the effects of air pollutants than are the population at large. Sensitive populations generally include schools, day care facilities, hospitals, and hospice/convalescent homes. The nearest sensitive population is the Lou Costello Jr. Recreation Center located about 0.75 north east of the ISOCI facility.

Certain state/local regulations and general public policy require that impacts of certain facilities on sensitive populations be evaluated. South Coast Air Quality Management District regulations require analysis of schools located within 1,000 feet of the project boundaries (South Coast Air Quality Management District Rule 212, Standards for Approving Permits). There are no schools located within 1,000 feet of ISOCI. This EIR evaluated the carcinogenic and non-carcinogenic health impacts to sensitive populations located within about one mile of the ISOCI facility (see Section 3.9.3). The state and federal ambient air quality standards have been developed to take into account impacts on sensitive populations. Further, the regulations established for toxic air contaminants require that emissions be minimized to the extent feasible for all populations. Therefore, there are no special criteria that apply to the sensitive populations."

Comment No. 35

The following is a written comment from Olivia Ochoa:

This is unacceptable!!! Your project (your company) does not belong in our neighborhood. We have enough chemical cos. My dad died of cancer approx. 25 years ago while employed at a nearby chemical co. Please take your toxic Co. to the desert – there's plenty of open space out there!

Response 35

Please see Response to Comment No. 20. Also, please note that DTSC has no affiliation with Industrial Service Oil Company, Inc. DTSC is a State regulatory agency, a Department within the California Environmental Protection Agency (Cal/EPA) that permits facilities to handle, treat, and dispose of hazardous waste.

Comment No. 36

The following is a written comment from Louis Martinez:

No Hazardous Waste Facility In Our Back Yard.

Response 36

Please see Response to Comment No. 20.

Comment No. 37

The following is a written comment from Lucille Ramos:

We have no need for any hazardous waste facility. These facilities must be moved away from any residential or any commercial area. Too many relatives and friends have left us from cancer and these are not smokers.

Response 37

Please see Response to Comment No. 20.

Comment No. 38

The following is a written comment from Arturo Herrera:

I feel that our community is the dumping site for this type of permit. Think of the resident of Boyle Heights & ELA which total over 2000,00 resident. Think about us who live in this area.

Response 38

Please see Response to Comments No. 2-9, 3-3, 14-25, and 20.

Comment No. 39

The following is a written comment from Antonia Mejia:

I would like to know why the school (around the area). They don't know about anything about this facility and the risks for our kids in the school.

Response 39

The schools in the area were included on the mailing list for the ISOCI project and Los Angeles Unified School District offices were also notified. Please see Responses 2-9, 3-3 and 14-25 regarding health risks associated with the proposed ISOCI project.

Comment No. 40

The following is a written comment from Diana B. Tarango:

I am against Industrial Service Co., Inc. increasing their capacity to do more business in Boyle Heights. There is a great concern about the Health issue that this kind of business brings to the community.

Response 40

Your comments regarding ISOCI are noted. Please see Responses 2-9, 3-3 and 14-25 regarding health risks associated with the proposed ISOCI project.

Comment No. 41

The following is a written comment from Ernestina Montellano:

I attended your meetings 3-28-06 - 3-29-06 at the Senior Center 2839 E. Third St. On Both meetings, you had no answers. I am against the expansion of Hazardous Waste Facility 1700 S. Soto. I have suffered of Bronchitis and Broncho Pneumonia. I always suffer bringing up phlegm. My lungs don't need toxic and hazardous waste in our air. We are already suffering form pollution from all the freeway around us. Go put these facilities next to the politicians that are backing yours. Leave our poor area alone.

Mr. Steve Rounds: You went to our Senior Center on 2839 E. Third Street Los Angeles, CA 90033 on 3-28-06 - 3-29-06 which was a very bad meeting. Yours had no answers for our people. I demand you have another meeting at the same place with answers.

Response 41

Your comments regarding ISOCI are noted. Please see Responses 2-9, 3-3 and 14-25 regarding health risks associated with the proposed ISOCI project.

Your comment regarding the meeting is noted. DTSC conducted a public hearing and attended 3 public meetings within the City of Los Angeles near the ISOCI facility to discuss the ISOCI facility. Additional meetings are not required. All comments received on the Draft EIR and draft permit are being responded to in this Response to Comment document.

Comment No. 42

The following is a written comment from Etelvira Lopez

We have no need for Hazardous Waste in our community. The risk is too high. Schools are surrounding the area. Many of these kids already have may have ailments due to the environment. We do not need to add more.

Response 42

Your comments regarding ISOCI are noted. Please see Responses 2-9, 3-3 and 14-25 regarding health risks associated with the proposed ISOCI project.

Comment No. 43-1

The following is a written comment from Miguel Flores

The draft Environmental Impact Report (dEIR) and Health Risk Assessment (HRA) for ISOCI were not at the Robert Louis Stevenson Library, which is the public repository for this project. Will the fact that these documents were not found at the repository result in an extension in the public comment period?

Response 43-1

Please see Response 1-1 regarding the extension of the public comment period. DTSC has provided a 120-day public comment period on the Draft EIR, which far exceeds the maximum comment period established by the CEQA Guidelines of 60 days. DTSC immediately placed a copy of the dEIR and the HRA at the public repository the moment DTSC was informed that these documents were missing.

Comment No. 43-2

The following is a written comment from Miguel Flores

The dEIR and HRA were not posted on the DTSC web site in its entirety. Does DTSC have written policy requiring the dEIR and HRA to be posted on its website?

Response 43-2

Please see Response 1-3 regarding DTSC's public outreach program. There is no policy that requires the Draft EIR and HRA to be posted on a web site.

Comment No. 43-3

The following is a written comment from Miguel Flores

Mr. Flores wants to know why he was not notified by mail of this project?

Response 43-3

Mr. Flores was not included on the mailing list because he lived outside of the area surrounding the ISOCI facility. However, DTSC will include Mr. Flores on the mailing list for future notifications regarding the proposed project.

Comment No. 44

The following is a written comment from Robert Jimenez - BHNC

The Boyle Heights Neighborhood Council (BHNC) is made of many diverse stakeholders including residents, community-based organizations, businesses, and many other interested individuals having a stake in the community. The council is a volunteer board officially recognized by the City's charter to advised government on their perspective in which government carries out its functions to the public benefit.

On 3/29/06, Boyle Heights Neighborhood Council (BHNC) asked questions regarding the aforementioned application to DTSC presenters. Thereafter, the BHNC deliberated and voted unanimously to oppose the application in question where granting such application would have a negative impact on the Boyle Heights community. The BHNC

joins the CRA/LA comments dated 2/13/06 in its enumeration of findings including, but not limited, to environment justice, public outreach, NOP, conflicting planning, et al that would adversely and ultimately impact the community at its expense. The CRA/LA succinctly articulates the points for not granting the application to which the BHNC would reiterate but finds it unnecessary.

Response 44

Please see Response to Comments 1-1 through 1-5, 2-1 through 2-19, and 14-1 through 14-28.

Comment No. 45

The following is a written comment from Anastacio T. Puga:

No site near my home that can affect the health of my children neighbors & elders.

Response 45

Please see Response to Comment No. 20.

Comment No. 46

The following is a written comment from Bertha L. Puga:

We request the site be put elsewhere.

Response 46

Please see Response to Comment No. 20.

Comment No. 47

The following is a written comment from Miguel A. Puga:

There are too many children living in the close proximity of this site.

Response 47

Please see Response to Comment No. 20.

Comment No. 48

The following comment is an electronic mail from Marita Santos:

Looking at the DEIR, the facility emissions of nitrogen oxide and volatile organic compounds are expected to be significant. According to the report, the projected emissions will be temporary, which will be during the construction period. What is the approximate time frame of the construction period and what is the health impact on the surrounding community in regards to the air quality during that period?

Response 48

The Draft EIR indicates that the construction emissions associated with the proposed project are less than significant. Therefore, no significant health impacts due to construction emissions are expected. The construction emissions would be temporary and cease following completion of construction activities.

The EIR indicates that the proposed project has the potential for significant adverse impacts due to NOx emissions from trucks and due to VOC emissions from the operation of the ISOCI facility. Mitigation measures were imposed that are expected to reduce the VOC emissions from the facility to less than significant. The NOx emissions from trucks are expected to remain significant as no feasible mitigation measures are available.

The proposed project is not expected to result in a measurable increase in nitrogen dioxide or ozone concentrations in the area, so no noticeable changes to ambient air quality are expected that would impact public health. The ISOCI facility is located near major freeway interchanges, therefore, the air quality in the area is dominated by the influence of mobile emissions from the freeway.

ATTACHMENT A